

LESSON #13

The Court Cases of the Civil Rights Movement

Questions:

- What was the civil right's movement?
- How did court cases affect a change in the American perspective on civil rights?
- How did the nation react to the growing civil rights movement?
- Why was there a need for legislation and Supreme Court decisions?
- How did John F. Kennedy's presidency affect the civil rights movement?
- What is the role of the Supreme Court?
- What impact did the civil rights movement have on American culture? Are there still valid concerns today?

Objectives:

- Students will be able to identify and describe the concept of the civil rights movement.
- Students will be able to recognize the relevant time period of the movement.
- Students will understand the role of the Supreme Court.
- Students will understand the legal cases that changed the movement.
- Students will be able to identify key members of the civil rights movement.
- Students will be able to discuss the role of JFK within the context of the civil rights movement.
- Students will determine if the civil rights movement was successful or not. They will support their answers with specific reasons.

Delaware Standards:

- (1) History Standard 1: Students will examine historical materials and they will analyze the changes over time regarding the civil rights movement. They will also make inferences using a causality ideology.
- (2) History Standard 2: Students will research key figures of the civil rights movement. They will examine documents and data to construct their own viewpoint on the accuracy and credibility of the material.
- (3) History Standard 3: Students will examine the events from many different perspectives and seek to answer why there are differing approaches and answers.
- (4) History Standard 4: Students will develop an understanding of the events that shape modern history.

Students will be introduced to the concept of the civil rights movement. We will discuss how the movement began and why there was the need for the movement (political and moral aspects will be examined). Students will develop an understanding of the structure and function of the United States Supreme Court. The students will examine the court cases that have affected the civil rights movement. They will also explore who the relevant members of the civil rights movement were. We will then discuss the role of John F. Kennedy in responding to the events of the 1960s that ultimately led to the passage of the Civil Rights Act. What legacy did JFK leave with regard to the civil rights movement will be explored. To conclude, we will examine how the act and laws have maintained to present day-have they been successful or are there contemporary challenges? Students will examine documents and court cases.

Materials:

- Supreme Court cases
- Video on the Civil Rights Movement & Central High
- Copies of speeches by JFK, LBJ, MLK, and Malcolm X.
- Audio and video excerpts of the speeches.
- Video clip of Rosa Parks

DAY 1:

Introduction: Students will be asked to brainstorm a list of the rights and freedoms they enjoy as American citizens. This list will be placed on the board for future reference.

In pairs, the students will discuss the words "civil" and "rights". They will write down their own interpretation of the word. Next they will look up each word in the dictionary for a formal meaning which they will also write down. The class will come together to discuss the two concepts and create a working meaning and understanding for our classroom.

The teacher will then review with the students what they remember of the United States constitution. Each student will then be given a copy of the constitution (there is a formal copy of the constitution attached and a version explained at a student level for younger grades or lower level learners). Working in groups the students will look through the constitution to find rights, freedoms, and/or guarantees that are stated. Each group will create a list to be shared with the class.

The class will finish by trying to answer two questions:

- (1) How might a person/group violate another's rights?
- (2) Why might a person/group choose to violate another's rights?

DAY 2:

The class will quickly review the definition of civil rights agreed upon on Day 1.

The question of "Why did some whites seek to limit and/or deny African-Americans the same rights and freedoms they enjoyed?" will be posed.

The beginnings of the Civil Rights Movement will be introduced. Students will take notes which will be used to create a timeline of Civil Rights history.

- Early Civil Rights efforts will be the first topic. The major efforts from the 1700s and the 1800s will be reviewed. (Please see attached chart.)
 - The ***Dred Scott*** case and its decision will be examined. What was the significance of the decision?
 - The ***Plessy v. Ferguson*** case and its decision will be examined. What was the significance of the decision?
 - How has the court's view changed in the years from ***Dred Scott*** to ***Plessy***?

The class will finish by trying to answer one question:

- (1) If amendments have been added to the constitution and the president has signed executive orders banning discrimination and segregation, why as the 1950s began are there still so many issues regarding discrimination and segregation against African Americans?

Homework: Each student will be given the name of a person or group which they are to research basic relevant information on. They are also to find that person/group's connection to the Civil Rights Movement. The findings will be shared at the next class. (A list of names is provided. The teacher can use their own discretion to add more.)

DAY 3:

The class will briefly review the two cases discussed in the previous class, ***Dred Scott*** and ***Plessy v. Ferguson*** and their effect on civil rights.

The focus of the class will be the 1950s with regard to the civil rights movement.

The ***Brown v. Topeka Board of Education*** case will be discussed in detail. Students will examine the facts and review the decisions made by the lower courts and then, finally, by the Supreme Court. They will determine the significance of the case and how this decision would now affect the growing civil rights movement.

- Students will complete a journal entry on whether they believe separate can ever be equal and why or why not.

The class will then begin a discussion on Rosa Parks and her refusal to give up her bus seat. This presentation will be mainly offered by the student who researched Ms. Parks with the teacher only adding additional commentary/explanation as needed.

- There will be a Q & A time where students may ask appropriate questions.
- The students will then see a video clip of Ms. Parks discussing her actions that day and the resulting events.

The establishment of the Southern Christian Leadership Conference will be the next topic. Again, a student will lead the presentation of information with only necessary support given by the teacher.

- The students not presenting are expected to be taking notes for upcoming activities such as the timeline and test.

DAY 4:

We will begin by recapping the information presented the previous day. Students will have the opportunity to ask any questions on the material covered thus far.

This class will be spent discussing the integration of Central High School in Arkansas.

- Students will view footage of the African American students attempting to enter the school only to be turned away by the National Guard who was called in.
- They will watch footage as the nine students are eventually able to enter the school with the protection of federal troops who were brought in.
- The students will then be broken into five groups. Each group will be given a copy of an editorial submitted to the ***Arkansas Gazette*** forty years ago. They will summarize the editorial and we will create a continuum to see where each of the editorials place.
 - Students will next write an editorial that is in response to the one they just reviewed.

HOMEWORK: Students will create a journal entry describing how they would have felt if they were one of the nine students to be the first to integrate into Central High.

DAY 5:

Students will have the opportunity to share any thoughts on the video from the previous day. They will also be able to share their journal entries if they feel comfortable enough to do so.

The class will now begin to focus on the civil rights movement of the 1960s. We will begin with the presentation on Martin Luther King Jr. by the students.

- After the student presentation has been completed. The class will discuss King's ideas on non-violent protest.
 - Student sit-ins and their results will be examined.
 - The Montgomery Bus boycott will also be discussed.
 - Marches and rallies will be examined.
 - Are these forms of protest effective?
 - Would they be effective today?

Presentations on the SNCC, CORE, and the Freedom Riders would also be presented. After the presentations, the class would try to answer:

- (1) Why was there a need for these organizations?
- (2) Did these organizations share any of the same goals or ideologies?
- (3) In which way did these groups differ?
- (4) Were these groups effective in accomplishing their goals?

Presentations will also be delivered on Maynard Jackson, Jesse Jackson, and Thurgood Marshall.

- (1) What role did each of these men play in the civil rights movement of the 1960s?

DAY 6:

This class will continue to develop the information shared in the previous class.

- Students will watch and listen to Martin Luther King as he presents his "I Have a Dream" speech during the march on Washington
- The students will then work together in small groups to present their interpretation of the speech via an art medium.

HOMEWORK: RESPONSE QUESTION: How did the nation react to the growing civil rights movement?

DAY 7:

The class will begin by sharing their artistic interpretations of MLK's "I Have a Dream" speech.

The class will then share their answers to the response question regarding the nation's reaction to the civil rights movement.

The class will then continue to look at the events of the 1960s that affected the civil rights movement.

- The topics to be covered in this class are:
 - Bombing of the 16th Street Baptist church.
 - Medgar Evers-student presentation
 - Freedom rides-from D.C. to southern states to register black voters
 - Freedom summer
 - Who was involved
 - The goal
 - Consequences and outcomes

The class will begin a discussion on John F. Kennedy as a man and as the president of the United States.

- His policy regarding civil rights will be examined.
- The events that brought forth presidential action will be studied.
- The role Robert Kennedy played in the developing civil rights movement will be presented by a student.

DAY 8:

Class will begin with a review activity. The game ***Jeopardy*** will offer the style for the review activity. Students will be given the response and will have to answer with "What is_____". This should provide a fun, quick assessment to make sure the students have understood the material presented in the previous classes.

In this class, the Civil Rights Act of 1964 will be examined as will the Voting Rights Act of 1965. After these acts have been examined, a question will be posed to the students:

- (1) If Congress is passing laws to provide equal access for African-Americans, then why is there rioting in major cities in the United States?

We will then return to student presentations focusing on people/groups that did not always use peaceful means of protests. Presentations on Malcolm X, the Black Panthers, and the Black Muslims, and the Ku Klux Klan will be offered.

Students will then be asked to answer:

- (1) Why did these groups choose to use non-peaceful methods?
- (2) What commonalities do these groups share? How were they fundamentally different?
- (3) Where they effective in attaining their goals?

HOMEWORK: Students are to find pictures of people, events, or symbols that they feel represent the civil rights movement. This information, once gathered, will be used to create a classroom collage.

DAY 9:

This class will return the focus on the United States Supreme Court and once again to civil rights cases brought to the attention of the Supreme Court.

The class will open with a PowerPoint presentation on the United States Supreme Court. Information provided will include:

- The composition of the court
- The role of the court
- The rules of the court
- How a case is brought before the court
- The possible ways in which the court can rule on a case
 - GENERAL INFORMATION: <http://www.supremecourtus.gov/>
 - THESE ARE PDF FILES.

Once the students have a solid understanding of the court, the class will begin a case study on The ***Heart of Atlanta Motel v. United States***.

Case study instructions: <http://WWW.LANDMARKCASES.ORG/CASESTUDY.HTML>
LANDMARK CASES: <http://WWW.LANDMARKCASES.ORG>

After completing the case study as a class, the students will be divided into groups and given a relevant civil rights case (from the list provided). Each group will review the facts of their case, frame the issue that came before the court, discuss the arguments made, reach a decision, and see if they agree/disagree with the decision handed down by the Supreme Court.

As the groups are working, the teacher will circulate between groups to offer suggestions and guidance. Also, each group will be shown on the computer how to look up a Supreme Court case on the internet by its citation.

- FINDING CASES: <http://caselaw.lp.findlaw.com/scripts/getcase.pl>

HOMEWORK: RESPONSE QUESTION-Why was there a need for legislation and Supreme Court decisions?

DAY 10:

Students will continue to work on their case studies. These studies will be presented in the following class.

DAY 11:

Presentation of case studies by the student groups.

Other groups will have the opportunity to pose questions and offer varying suggestions and opinions.

DAY 12:

This class will be a wrap up class to close out the civil rights movement of the 1960s.

The presentation on Lyndon Johnson will be made.

Then the class will begin by discussing President Johnson's administration with regard to civil rights. Was he able to fulfill Kennedy's legacy with the passage of the Civil Rights Act and the Voting Rights Act?

The class will then read and listen to speeches by John F. Kennedy, Lyndon B. Johnson, Martin Luther King, Jr., and Malcolm X.

- After reading the speeches we will brainstorm on any similarities suggested in the speech.
- Next we will examine the approach each man offered in his speech.
- Students will then be divided into pairs to create their own speeches that reflect their views and understanding of the civil rights movement.
 - LBJ: <http://128.83.78.10/johnson/archives.hom/speeches.hom/650315.asp>
 - JFK:
 - <http://www.cs.umb.edu/jfklibrary/j061163.htm>
 - MLK:
 - <http://www.usconstitution.net/dream.html>
 - MALCOLM X:
 - <http://www.spartacus.schoolnet.co.uk/USAmalcolmX.htm>

DAY 13:

This class will briefly review major events that have contributed to the civil rights movement since the 1960s.

- ***The University of California v. Bakke*** case and decision will be examined. What was the effect of the outcome of the case?
- We will identify African-Americans who have been forerunners opening the doors for their fellow African Americans to enter.

The class will then focus on civil rights in the 1990s. We will examine documents from the Department of Justice that provide information on civil rights complaints from 1990-1998. (Information given on resource page).

- The students will see that in 1998 alone, over 42, 000 complaints were filed alleging a civil rights related issue.
 - <http://www.ojp.usdoj.gov/bjs/pub/pdf/crcus00.pdf>
 - <http://www.ojp.usdoj.gov/bjs/pub/pdf/crcusdc.pdf>
- The students will examine the types of issues for which complaints were made: employment, housing, welfare benefits, voting rights, etc.,
 - <http://WWW.FBI.GOV/>

The students will then graph the data to make a visual representation of the type and number of complaints filed in the 1990s.

We will complete a second follow-up activity using data from the Federal Bureau of Investigation regarding hate crimes from the year 1999. Again the students will be expected to graph the data.

Once the visual representations have been completed, the graphs will be examined to see if the students can reach any generalizations using the two graphs.

HOMEWORK: RESPONSE QUESTION-What impact did the civil rights movement have on American culture? Are there still valid concerns?

DAY 14:

This class will focus on civil rights in the United States since the tragedy of September 11, 2001.

Students will be given excerpts from the Patriot Act to read and prepare for discussion. The Patriot Act was initially designed to make it more difficult for terrorists to enter the United States by giving extra powers to intelligence officials. However, many organizations now fear Americans may be losing the rights and freedoms given to them in the Constitution and reinforced by Supreme Court decisions.

- Students will examine parts of the Patriot Act to determine if the broadening of powers is limiting liberty for U.S. citizens.
 - <http://www.epic.org/privacy/terrorism/hr3162.html>
- The class will review information gathered by the American Civil Liberties Union regarding the Patriot Act and its potential to erode our civil liberties.
 - <http://WWW.ACLU.ORG/SAFEANDFREE.CFM>
 - <http://WWW.ABCNEWS.GO.COM/SECTIONS/US/DAILYNEWS/USAPATRIOT020701.HTML>
 - <http://WWW.GLOBALENGAGEMENT.ORG/ISSUES/2003/12/PATRIOT.HTM>

Students will work in pairs to create a chart listing the pros and cons of the Patriot Act. Then the class will come together to share their lists. The class will then discuss if the Patriot Act is justifies? Constitutional? Moral?

The class will finish with a discussion on the legacy of the civil rights movement. Was it effective? Has the situation for African Americans improved-politically, economically, educationally, personally, etc

Homework: Essay-Topic: How would Martin Luther King, Jr. view the world today and the status of civil rights for African Americans? Be specific and support your statements.

DAY 15:

This class will be a review for the upcoming unit test. The class will formally review significant date. There will be the opportunity for a question and answer session. Finally, we would play history jeopardy to close out the review in a fun way.

If there is any time available, students will be able to put the finishing touches on their timeline.

DAY 16:

Unit test! ☹️

After the test, students will have the opportunity to review their journal responses to see if they need to add or change their initial response due to increased information and awareness.

The class will also put the finishing touches on the classroom collage.

POST LESSON/UNIT ASSESSMENT:

Assessment will be daily, on-going, and both formal and informal.

Students will be graded for their participation in the classroom activities that will be assigned. They will also receive credit for completing their homework and for their contribution to the class collage.

Formal Assessment will be as follows:

- (1) Response journal-in which they will answer questions posed to them and write their thoughts or feelings about the information presented in class daily
- (2) Notebook-students will receive a grade for having a complete "notebook" with class notes, who's who, cases, definitions, research material, charts, etc from this project
- (3) Research project and presentation
- (4) Art project based on the "I Have a Dream" speech
- (5) Editorial
- (6) Speech
- (7) Case study and presentation
- (8) Timeline
- (9) graphs
- (10) essay
- (11) unit test

This project should engage learners of every style and should offer a method of assessment that each student is familiar with or prefers.

HOMEWORK: LIST OF NAMES TO BE RESEARCHED

GROUPS:

BLACK MUSLIMS

BLACK PANTHERS

CORE-CONGRESS OF RACIAL EQUALITY

FREEDOM RIDERS

SCLC-SOUTHERN CHRISTIAN LEADERSHIP
CONFERENCE

SNCC-STUDENT NON-VIOLENT
COORDINATING COMMITTEE

PERSONS:

MEDGAR E VARS

JESSE JACKSON

JOHN F. KENNEDY

ROBERT KENNEDY

KU KLUX KLAN

MARTIN LUTHER KING JR.

THURGOOD MARSHALL

ROSA PARKS

MALCOLM X

RESOURCE PAGE:

AMERICAN CIVIL LIBERTIES UNION:

<http://WWW.ACLU.ORG/SAFEANDFREE.CFM>

CIVIL RIGHTS CASES

- LANDMARK CASES: <http://WWW.LANDMARKCASES.ORG>
- FEDERAL BUREAU OF INVESTIGATION: <http://WWW.FBI.GOV/>
- CASE STUDY INSTRUCTIONS:
<http://WWW.LANDMARKCASES.ORG/CASESTUDY.HTML>
- FINDING CASES: <http://caselaw.lp.findlaw.com/scripts/getcase.pl>

CIVIL RIGHTS MOVEMENT:

- CNN: <http://WWW.CNN.COM/EVENTS>

DEPARTMENT OF JUSTICE:

- STATISTICS: <http://www.ojp.usdoj.gov/bjs/pub/pdf/crcus00.pdf>
- <http://www.ojp.usdoj.gov/bjs/pub/pdf/crcusdc.pdf>

PATRIOT ACT

- ABC NEWS:
<http://WWW.ABCNEWS.GO.COM/SECTIONS/US/DAILYNEWS/USAPATRIOT020701.HTML>
- GLOBAL NET:
<http://WWW.GLOBALENGAGEMENT.ORG/ISSUES/2003/12/PATRIOT.HTM>
- ACLU:
<http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12126&c=207>

SPEECHES:

- LBJ:
<http://128.83.78.10/johnson/archives.hom/speeches.hom/650315.asp>

SUPREME COURT

- GENERAL INFORMATION: <http://www.supremecourtus.gov/>
 - THESE ARE PDF FILES.

Dallek, Robert. An Unfinished Life: John F. Kennedy. Little, Brown & Company: New York, 2003.

DEPARTMENT OF JUSTICES STATISTICS 1990-1998

- Between 1990 and 1998 the number of cases in which plaintiffs sought civil remedies related to discrimination in employment, housing, welfare, voting, or other civil rights issues more than doubled from 18,793 to 42,354.
- The growth of civil rights cases has been due largely to the increase in employment cases between private parties.
- The Federal Government was involved as a plaintiff or defendant in about 7% of civil rights- related complaints in 1998 down from 13% in 1990.

FBI: Investigative Programs

Civil Rights

HATE CRIMES

The number one priority in the FBI's Civil Rights Program is the investigation of hate crimes. The FBI's jurisdiction pertaining to hate crimes is primarily predicated on four federal statutes:

- 1) Title 18, United States Code (U.S.C.), Section 241 (Conspiracy Against Rights);
- 2) Title 18, U.S.C., Section 245 (Interference with Federally Protected Activities);
- 3) Title 18, U.S.C., Section 247 (Damage to Religious Property; Obstruction in Free Exercise of Religious Beliefs); and
- 4) Title 42, U.S.C., Section 3631 (Criminal Interference with Right to Fair Housing).

Although the Hate Crimes Statistics Act of 1990 (amended in 1994 and 1996) defines a hate crime as a crime against a person or property motivated by bias toward race, religion, ethnicity/national origin, disability, or sexual orientation, the FBI does not have any federal jurisdiction to investigate hate crimes motivated by a sexual orientation bias. The FBI's authority to investigate hate crimes motivated by a disability bias is generally limited to incidents interfering with the victim's housing rights.

The FBI's role in civil rights investigations dates back to the passage of the Civil Rights Act of 1964. This legislation was passed by Congress after President Lyndon Johnson addressed a joint session of Congress on November 23, 1963, and called for them "to write the next chapter of equal rights and to write it in the book of law." Prior to the Civil Rights Act of 1964, the federal government, under the leadership of both Presidents Eisenhower and Kennedy, took the position that protection of civil rights was a local function, not a federal one. However, the murder of civil rights workers Michael Schwerner, Andrew Goodman, and James Chaney, near Philadelphia, Mississippi, in June 1964, provided the impetus for a visible and sustained federal effort to protect and foster civil rights for blacks. MIBURN, as the case was called (it stood for Mississippi Burning), became the largest federal investigation ever conducted in Mississippi. On October 20, 1967, seven men were convicted of conspiring to violate the constitutional rights of the slain civil rights workers. All seven were sentenced to prison terms ranging from three to ten years.

The most recent available hate crimes statistics compiled by the FBI are for the year 1999. During 1999, 7,876 hate crime incidents were reported to the FBI by 12,122 law enforcement agencies in 48 states and the District of Columbia. The 1999 statistics reflected the following:

Number of incidents by Bias Motivation:

- 4,295 were motivated by racial bias
- 1,411 were motivated by religious bias
- 1,317 were motivated by sexual orientation bias
- 829 were motivated by ethnicity/national origin bias
- 19 were motivated by disability bias
- 5 were motivated by multiple biases

Frequently, hate crime investigations are conducted jointly by the FBI and state/local law enforcement authorities and, thereafter, prosecuted under state statutes such as murder, arson or more recent local ethnic intimidation statutes. Once the state prosecution begins, the FBI monitors the proceedings and reports the final results to DOJ for review. This process ensures that the law is applied equally among the 95 U.S. Judicial Districts.

YEAR	CASE
1856	Dred Scott v. Sandford
1896	Plessy v. Ferguson
1946	Morgan v. Virginia
1950	Sweatt v. Painter
1954	Bolling v. Sharpe
1954	Brown v. Topeka Board of Education
1960	Boynton v. Virginia
1961	Burton v. Wilmington Parking Authority
1962	Lombard v. Virginia
1963	Johnson v. Louisiana
1963	Peterson v. Greenville, SC
1964	Bell v. Maryland
1964	Heart of Atlanta Motel v. U.S.
1964	Anderson v. Martin
1964	Robinson v. Florida
1964	Hamm v. Rock Hill
1964	Katzenbach v. McClung
1965	Louisiana v. U.S.
1965	U.S. v. Mississippi
1967	Loving v. Virginia
1968	Jones v. Mayer
1969	Hadnott v. Amos
1971	Griggs v. Duke Power Company
1978	University of California Regents v. Bakke

U.S. Supreme Court

DRED SCOTT v. SANDFORD, 60 U.S. 393 (1856)

THIS case was brought up, by writ of error, from the Circuit Court of the United States for the district of Missouri.

It was an action of trespass vi et armis instituted in the Circuit Court by Scott against Sandford.

Prior to the institution of the present suit, an action was brought by Scott for his freedom in the Circuit Court of St. Louis county, (State court,) where there was a verdict and judgment in his favor. On a writ of error to the Supreme Court of the State, the judgment below was reversed, and the case remanded to the Circuit Court, where it was continued to await the decision of the case now in question.

The declaration of Scott contained three counts: one, that Sandford had assaulted the plaintiff; one, that he had assaulted Harriet Scott, his wife; and one, that he had assaulted Eliza Scott and Lizzie Scott, his children.

Sandford appeared, and filed the following plea:

DRED SCOTT v. JOHN F. A. SANDFORD.

Plea to the Jurisdiction of the Court.

APRIL TERM, 1854.

And the said John F. A. Sandford, in his own proper person, comes and says that this court ought not to have or take further cognizance of the action aforesaid, because he says that said cause of action, and each and every of them, (if any such have accrued to the said Dred Scott,) accrued to the said Dred Scott out of the jurisdiction of this court, and exclusively within the jurisdiction of the courts of the State of Missouri, for that, to wit: the said plaintiff, Dred Scott, is not a citizen of the State of Missouri, as alleged in his declaration, because [60 U.S. 393, 397] he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves, and this the said Sandford is ready to verify. Wherefore, he prays judgment whether this court can or will take further cognizance of the action aforesaid.

JOHN F. A. SANDFORD.

To this plea there was a demurrer in the usual form, which was argued in April, 1854, when the court gave judgment that the demurrer should be sustained.

In May, 1854, the defendant, in pursuance of an agreement between counsel, and with the leave of the court, pleaded in bar of the action:

1. Not guilty.

2. That the plaintiff was a negro slave, the lawful property of the defendant, and, as such, the defendant gently laid his hands upon him, and thereby had only restrained him, as the defendant had a right to do.

3. That with respect to the wife and daughters of the plaintiff, in the second and third counts of the declaration mentioned, the defendant had, as to them, only acted in the same manner, and in virtue of the same legal right.

In the first of these pleas, the plaintiff joined issue; and to the second and third, filed replications alleging that the defendant, of his own wrong and without the cause in his second and third pleas alleged, committed the trespasses, &c.

The counsel then filed the following agreed statement of facts, viz:

In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year, 1834, said Dr. Emerson took the plaintiff from the State of Missouri to the military post at Rock Island, in the State of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the Territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of thirty-six degrees thirty minutes north, and north of the State of Missouri. Said Dr. Emerson held the plaintiff in slavery at said Fort Snelling, from said last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. [60 U.S. 393, 398] In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post, situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave at said Fort Snelling unto the said Dr. Emerson hereinbefore named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

In the year 1836, the plaintiff and said Harriet at said Fort Snelling, with the consent of said Dr. Emerson, who then claimed to be their master and owner, intermarried, and took each other for husband and wife. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the State of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the State of Missouri, at the military post called Jefferson Barracks.

In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet and their said daughter Eliza, from said Fort Snelling to the State of Missouri, where they have ever since resided.

Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, said Harriet, Eliza, and Lizzie, to the defendant, as slaves, and the defendant has ever since claimed to hold them and each of them as slaves.

At the times mentioned in the plaintiff's declaration, the defendant, claiming to be owner as aforesaid, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them, doing in this respect, however, no more than what he might lawfully do if they were of right his slaves at such times.

Further proof may be given on the trial for either party.

It is agreed that Dred Scott brought suit for his freedom in the Circuit Court of St. Louis county; that there was a verdict and judgment in his favor; that on a writ of error to the Supreme Court, the judgment below was reversed, and the same remanded to the Circuit Court, where it has been continued to await the decision of this case.

In May, 1854, the cause went before a jury, who found the following verdict, viz: 'As to the first issue joined in this case, we of the jury find the defendant not guilty; and as to the issue secondly above joined, we of the jury find that before and at the time when, &c., in the first count mentioned, the said Dred Scott was a negro slave, the lawful property of the defendant; and as to the issue thirdly above joined, we, the jury, find that before and at the time when, &c., in the second and third counts mentioned, the said Harriet, wife of [60 U.S. 393, 399] said Dred Scott, and Eliza and Lizzie, the daughters of the said Dred Scott, were negro slaves, the lawful property of the defendant.'

Whereupon, the court gave judgment for the defendant.

After an ineffectual motion for a new trial, the plaintiff filed the following bill of exceptions.

On the trial of this cause by the jury, the plaintiff, to maintain the issues on his part, read to the jury the following agreed statement of facts, (see agreement above.) No further testimony was given to the jury by either party. Thereupon the plaintiff moved the court to give to the jury the following instruction, viz:

'That, upon the facts agreed to by the parties, they ought to find for the plaintiff. The court refused to give such instruction to the jury, and the plaintiff, to such refusal, then and there duly excepted.'

The court then gave the following instruction to the jury, on motion of the defendant:

'The jury are instructed, that upon the facts in this case, the law is with the defendant.' The plaintiff excepted to this instruction.

Upon these exceptions, the case came up to this court.

It was argued at December term, 1855, and ordered to be reargued at the present term.

Upon the whole, therefore, it is the judgment of this court, that it appears by the record before us that the plaintiff in error is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the Circuit Court of the United States, for that reason, had no jurisdiction in the case, and could give no judgment in it. Its judgment for the defendant must, consequently, be reversed, and a mandate issued, directing the suit to be dismissed for want of jurisdiction

Plessy v. Ferguson, 163 U.S. 537 (1896) (USSC+)

✚ Syllabus

✚ The statute of Louisiana, acts of 1890, c. 111, requiring railway companies carrying passengers in their coaches in that State, to provide equal, but separate, accommodations for the white and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations; and providing that no person shall be permitted to occupy seats in coaches other than the ones assigned to them, on account [p*538] of the race they belong to; and requiring the officer of the passenger train to assign each passenger to the coach or compartment assigned for the race to which he or she belong; and imposing fines or imprisonment upon passengers insisting on going into a coach or compartment other than the one set aside for the race to which he or she belongs; and conferring upon officers of the train power to refuse to carry on the train passengers refusing to occupy the coach or compartment assigned to them, and exempting the railway company from liability for such refusal, are not in conflict with the provisions either of the Thirteenth Amendment or of the Fourteenth Amendment to the Constitution of the United States.

✚ This was a petition for writs of prohibition and certiorari, originally filed in the Supreme Court of the State by Plessy, the plaintiff in error, against the Hon. John H. Ferguson, judge of the criminal District Court for the parish of Orleans, and setting forth in substance the following facts:

✚ That petitioner was a citizen of the United States and a resident of the State of Louisiana, of mixed descent, in the proportion of seven eighths Caucasian and one eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every recognition, right, privilege and immunity secured to the citizens of the United States of the white race by its Constitution and laws; that, on June 7, 1892, he engaged and paid for a first class passage on the East Louisiana Railway from New Orleans to Covington, in the same State, and thereupon entered a passenger train, and took possession of a vacant seat in a coach where passengers of the white race were accommodated; that such railroad company was incorporated by the laws of Louisiana as a common carrier, and was not authorized to distinguish between citizens according to their race. But, notwithstanding this, petitioner was required by the conductor, under penalty of ejection from said train and imprisonment, to vacate said coach and occupy another seat in a coach assigned by said company for persons not of the white race, and for no other reason than that petitioner was of the colored race; that, upon petitioner's refusal to comply with such order, he was, with the aid of a police officer, forcibly ejected from said coach and hurried off to and imprisoned in the parish jail of [p*539] New Orleans, and there held to answer a charge made by such officer to the effect that he was guilty of having criminally violated an act of the General Assembly of the State, approved July 10, 1890, in such case made and provided.

That petitioner was subsequently brought before the recorder of the city for preliminary examination and committed for trial to the criminal District Court for the parish of Orleans, where an information was filed against him in the matter above set forth, for a violation of the above act, which act the petitioner affirmed to be null and void, because in conflict with the Constitution of the United States; that petitioner interposed a plea to such information based upon the unconstitutionality of the act of the General Assembly, to which the district attorney, on behalf of the State, filed a demurrer; that, upon issue being joined upon such demurrer and plea, the court sustained the demurrer, overruled the plea, and ordered petitioner to plead over to the facts set forth in the information, and that, unless the judge of the said court be enjoined by a writ of prohibition from further proceeding in such case, the court will proceed to fine and sentence petitioner to imprisonment, and thus deprive him of his constitutional rights set forth in his said plea, notwithstanding the unconstitutionality of the act under which he was being prosecuted; that no appeal lay from such sentence, and petitioner was without relief or remedy except by writs of prohibition and certiorari. Copies of the information and other proceedings in the criminal District Court were annexed to the petition as an exhibit.

✚ Upon the filing of this petition, an order was issued upon the respondent to show cause why a writ of prohibition should not issue and be made perpetual, and a further order that the record of the proceedings had in the criminal cause be certified and transmitted to the Supreme Court.

✚ To this order the respondent made answer, transmitting a certified copy of the proceedings, asserting the constitutionality of the law, and averring that, instead of pleading or admitting that he belonged to the colored race, the said Plessy declined and refused, either by pleading or otherwise, to admit [p*540] that he was in any sense or in any proportion a colored man.

✚ The case coming on for a hearing before the Supreme Court, that court was of opinion that the law under which the prosecution was had was constitutional, and denied the relief prayed for by the petitioner. *Ex parte Plessy*, 45 La. Ann. 80. Whereupon petitioner prayed for a writ of error from this court, which was allowed by the Chief Justice of the Supreme Court of Louisiana.

Opinions

✚ BROWN, J., Opinion of the Court

✚ MR. JUSTICE BROWN, after stating the case, delivered the opinion of the court.

✚ This case turns upon the constitutionality of an act of the General Assembly of the State of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races. Acts 1890, No. 111, p. 152.

✚ The first section of the statute enacts

✚ that all railway companies carrying passengers in their coaches in this State shall provide equal but separate accommodations for the white and colored races by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations: *Provided*, That this section shall not be construed to apply to street railroads. No person or persons, shall be admitted to occupy seats in coaches other than the ones assigned to them on account of the race they belong to.

✚ By the second section, it was enacted

✚ that the officers of such passenger trains shall have power and are hereby required [p*541] to assign each passenger to the coach or compartment used for the race to which such passenger belongs; any passenger insisting on going into a coach or compartment to which by race he does not belong shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison, and any officer of any railroad insisting on assigning a passenger to a coach or compartment other than the one set aside for the race to which said passenger belongs shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison; and should any passenger refuse to occupy the coach or compartment to which he or she is assigned by the officer of such railway, said officer shall have power to refuse to carry such passenger on his train, and for such refusal neither he nor the railway company which he represents shall be liable for damages in any of the courts of this State.

✚ The third section provides penalties for the refusal or neglect of the officers, directors, conductors, and employees of railway companies to comply with the act, with a proviso that "nothing in this act shall be construed as applying to nurses attending children of the other race." The fourth section is immaterial.

✚ The information filed in the criminal District Court charged in substance that Plessy, being a passenger between two stations within the State of Louisiana, was assigned by officers of the company to the coach used for the race to which he belonged, but he insisted upon going into a coach used by the race to which he did not belong. Neither in the information nor plea was his particular race or color averred. The petition for the writ of prohibition averred that petitioner was seven-eighths Caucasian and one eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every right, privilege and immunity secured to citizens of the United States of the white race; and that, upon such theory, he took possession of a vacant seat in a coach where passengers of the white race were accommodated, and was ordered by the conductor to vacate [p*542] said coach and take a seat in another assigned to persons of the colored race, and, having refused to comply with such demand, he was forcibly ejected with the aid of a police officer, and imprisoned in the parish jail to answer a charge of having violated the above act.

✚ The constitutionality of this act is attacked upon the ground that it conflicts both with the Thirteenth Amendment of the Constitution, abolishing slavery, and the Fourteenth Amendment, which prohibits certain restrictive legislation on the part of the States.

MORGAN v. COM. OF VA., 328 U.S. 373 (1946)

Appeal from the Supreme Court of Appeals of the State of Virginia.

Messrs. William H. Hastie, of Washington, D.C., and Thurgood Marshall, of New York City, for appellant. [328 U.S. 373, 374] Mr. Abram P. Staples, of Richmond, Va., for appellee.

Mr. Justice REED delivered the opinion of the Court.

This appeal brings to this Court the question of the constitutionality of an act of Virginia,¹ which requires all passenger motor vehicle carriers, both interstate and intrastate,² to separate without discrimination³ the white and colored passengers in their motor buses so that contiguous seats will not be occupied by persons of different races at the same time. A violation of the requirement of separation by the carrier is a misdemeanor. ⁴ The driver or other person in charge is directed and required to increase or decrease the space allotted to the respective races as may be necessary or proper and may require passengers to change their seats to comply with the allocation. The operator's failure to enforce the provisions is made a misdemeanor. ⁵

These regulations were applied to an interstate passenger, this appellant, on a motor vehicle then making an interstate run or trip. According to the statement of fact by the Supreme Court of Appeals of Virginia, appellant, who is a Negro, was traveling on a motor common carrier, operating under the above-mentioned statute, from Gloucester County, Virginia, through the District of Columbia, to Baltimore, Maryland, the destination of the bus. There were other passengers, both white and colored. On her refusal to accede to a request of the driver to move to a back seat, which was partly occupied by other colored passengers, so as to permit the seat that she vacated to be used by white passengers, a warrant was obtained and appellant was arrested, tried and convicted of a violation of Section 4097dd of the Virginia Code. ⁶ On a writ of error the conviction was affirmed by the Supreme Court of Appeals of Virginia. 184 Va. 24, 34 S.E.2d 491. The Court of Appeals interpreted the Virginia statute as applicable to appellant since the statute 'embraces all motor vehicles and all [328 U.S. 373, 376] passengers, both interstate and intrastate.' ⁷ The Court of Appeals refused to accept appellant's contention that the statute applied was invalid as a delegation of legislative power to the carrier by a concurrent holding 'that no power is delegated to the carrier to legislate. ... The statute itself condemns the defendant's conduct as a violation of law and not the rule of the carrier.' Id., 184 Va. at page 38, 34 S.E.2d at page 497. No complaint is made as to these interpretations of the Virginia statute by the Virginia court. ⁸

In weighing the factors that enter into our conclusion as to whether this statute so burdens interstate commerce or so infringes the requirements of national uniformity as to be invalid, we are mindful of the fact that conditions [328 U.S. 373, 386] vary between northern or western states such as Maine or Montana, with practically no colored population; industrial states such as Illinois, Ohio, New Jersey and Pennsylvania with a small, although appreciable, percentage of colored citizens; and the states of the deep south with percentages of from twenty-five to nearly fifty per cent colored, all with

varying densities of the white and colored race in certain localities. Local efforts to promote amicable relations in difficult areas by legislative segregation in interstate transportation emerge from the latter racial distribution. As no state law can reach beyond its own border nor bar transportation of passengers across its boundaries, diverse seating requirements for the races in interstate journeys result. As there is no federal act dealing with the separation of races in interstate transportation, we must decide the validity of this Virginia statute on the challenge that it interferes with commerce, as a matter of balance between the exercise of the local police power and the need for national uniformity in the regulations for interstate travel. It seems clear to us that seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and protect national travel. Consequently, we hold the Virginia statute in controversy invalid.

REVERSED.

HENDERSON v. UNITED STATES, 339 U.S. 816 (1950)

Under the rules of an interstate railroad, dining cars are divided so as to allot ten tables exclusively to white passengers and one table exclusively to Negro passengers, and a curtain separates the table reserved for Negroes from the others. Under these rules, only four Negro passengers may be served at one time and then only at the table reserved for Negroes. Other Negroes who present themselves are compelled to await a vacancy at that table, although there may be many vacancies elsewhere in the diner. The rules impose a like deprivation upon white passengers whenever more than 40 of them seek to be served at the same time and the table reserved for Negroes is vacant. Held: These rules and practices violate 3 (1) of the Interstate Commerce Act, which makes it unlawful for a railroad in interstate commerce "to subject any particular person . . . to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." Pp. 818-826.

- a) Having been subjected to the railroad's earlier practices which the Interstate Commerce Commission and the court below found violative of the Interstate Commerce Act, appellant, a Negro, has standing to challenge the railroad's current regulations on the ground that they permit the recurrence of comparable violations. P. 823.
 - (b) The right to be free from unreasonable discriminations belongs, under 3 (1), to each particular person. P. 824.
 - (c) The curtains, partitions and signs emphasizing the artificiality of a difference in treatment of passengers holding identical tickets and using the same public dining facility violate 3 (1). P. 825.
 - (d) The limited demand for dining-car facilities by Negro passengers does not justify the regulations. P. 825.
 - (e) That the regulations may impose on white passengers, in proportion to their numbers, disadvantages similar to those imposed on Negro passengers does not validate them under 3 (1). Pp. 825-826.
- 80 F. Supp. 32, reversed. [339 U.S. 816, 817]

SWEATT v. PAINTER, 339 U.S. 629 (1950)

Petitioner was denied admission to the state-supported University of Texas Law School, solely because he is a Negro and state law forbids the admission of Negroes to that Law School. He was offered, but he refused, enrollment in a separate law school newly established by the State for Negroes. The University of Texas Law School has 16 full-time and three part-time professors, 850 students, a library of 65,000 volumes, a law review, moot court facilities, scholarship funds, an Order of the Coif affiliation, many distinguished alumni, and much tradition and prestige. The separate law school for Negroes has five full-time professors, 23 students, a library of 16,500 volumes, a practice court, a legal aid association and one alumnus admitted to the Texas Bar; but it excludes from its student body members of racial groups which number 85% of the population of the State and which include most of the lawyers, witnesses, jurors, judges, and other officials with whom petitioner would deal as a member of the Texas Bar. Held: The legal education offered petitioner is not substantially equal to that which he would receive if admitted to the University of Texas Law School; and the Equal Protection Clause of the Fourteenth Amendment requires that he be admitted to the University of Texas Law School. Pp. 631-636.

Reversed.

Brown v. Board of Education, 347 U.S. 483 (1954)

✚ Syllabus

✚ Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment -- even though the physical facilities and other "tangible" factors of white and Negro schools may be equal. Pp. [486-496](#) .

(a) The history of the Fourteenth Amendment is inconclusive as to its intended effect on public education. Pp. [489-490](#) .

(b) The question presented in these cases must be determined not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the full development of public education and its present place in American life throughout the Nation. Pp. [492-493](#) .

(c) Where a State has undertaken to provide an opportunity for an education in its public schools, such an opportunity is a right which must be made available to all on equal terms. P. [493](#) .

(d) Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors may be equal. Pp. [493-494](#) .

(e) The "separate but equal" doctrine adopted in *Plessy v. Ferguson*, [163 U.S. 537](#) , has no place in the field of public education. P. [495](#) .

(f) The cases are restored to the docket for further argument on specified questions relating to the forms of the decrees. Pp. [495-496](#) .

✚ Opinions

✚ WARREN, C.J., Opinion of the Court

✚ [p*486] MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

✚ These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion. [\[n1\]](#) [p*487]

✚ In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, [p*488] they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment. In each of the cases other than the Delaware case, a three-judge federal district court denied relief to the plaintiffs on the so-called "separate but equal" doctrine announced by this Court in *Plessy v. Ferguson*, [163 U.S. 537](#) . Under that doctrine, equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate. In the Delaware case, the Supreme Court of Delaware adhered to that doctrine, but ordered that the plaintiffs be admitted to the white schools because of their superiority to the Negro schools.

✚ The plaintiffs contend that segregated public schools are not "equal" and cannot be made "equal," and that hence they are deprived of the equal protection of the laws. Because of the obvious importance of the question presented, the Court took jurisdiction.^{[\[in2\]](#)} Argument was heard in the 1952 Term, and reargument was heard this Term on certain questions propounded by the Court.^{[\[in3\]](#)} [p*489]

✚ Reargument was largely devoted to the circumstances surrounding the adoption of the Fourteenth Amendment in 1868. It covered exhaustively consideration of the Amendment in Congress, ratification by the states, then-existing practices in racial segregation, and the views of proponents and opponents of the Amendment. This discussion and our own investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive. The most avid proponents of the post-War Amendments undoubtedly intended them to remove all legal distinctions among "all persons born or naturalized in the United States." Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the Amendments and wished them to have the most limited effect. What others in Congress and the state legislatures had in mind cannot be determined with any degree of certainty.

✚ An additional reason for the inconclusive nature of the Amendment's history with respect to segregated schools is the status of public education at that time.^{[\[in4\]](#)} In the South, the movement toward free common schools, supported [p*490] by general taxation, had not yet taken hold. Education of white children was largely in the hands of private groups. Education of Negroes was almost nonexistent, and practically all of the race were illiterate. In fact, any education of Negroes was forbidden by law in some states. Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences, as well as in the business and professional world. It is true that public school education at the time of the Amendment had advanced further in the North, but the effect of the Amendment on Northern States was generally ignored in the congressional debates. Even in the North, the conditions of public education did not approximate those existing today. The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states, and compulsory school attendance was virtually unknown. As a

consequence, it is not surprising that there should be so little in the history of the Fourteenth Amendment relating to its intended effect on public education.

✚ In the first cases in this Court construing the Fourteenth Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race.^[n5] The doctrine of [p*491] "separate but equal" did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*, *supra*, involving not education but transportation.^[n6] American courts have since labored with the doctrine for over half a century. In this Court, there have been six cases involving the "separate but equal" doctrine in the field of public education.^[n7] In *Cumming v. County Board of Education*, 175 U.S. 528, and *Gong Lum v. Rice*, 275 U.S. 78, the validity of the doctrine itself was not challenged.^[n8] In more recent cases, all on the graduate school [p*492] level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications. *Missouri ex rel. Gaines v. Canada*, [305 U.S. 337](#) ; *Sipuel v. Oklahoma*, 332 U.S. 631; *Sweatt v. Painter*, [339 U.S. 629](#) ; *McLaurin v. Oklahoma State Regents*, [339 U.S. 637](#) . In none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff. And in *Sweatt v. Painter*, *supra*, the Court expressly reserved decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education.

✚ In the instant cases, that question is directly presented. Here, unlike *Sweatt v. Painter*, there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors.^[n9] Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

✚ In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout [p*493] the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

✚ Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

✚ We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other

"tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

✚ In *Sweatt v. Painter*, *supra*, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court relied in large part on "those qualities which are incapable of objective measurement but which make for greatness in a law school." In *McLaurin v. Oklahoma State Regents*, *supra*, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations: ". . . his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." [p*494] Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system. [In101](#)

Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. [In111](#) Any language [p*495] in *Plessy v. Ferguson* contrary to this finding is rejected.

✚ We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment. [In121](#)

✚ Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question -- the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5

previously propounded by the Court for the reargument this Term^[n13] The Attorney General [p*496] of the United States is again invited to participate. The Attorneys General of the states requiring or permitting segregation in public education will also be permitted to appear as *amici curiae* upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954.^[n14]

✚ *It is so ordered.*

Bolling v. Sharpe, 347 U.S. 497 (1954) (USSC+)

✚ Syllabus

✚ Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the Fifth Amendment. Pp. [498-500](#) .

✚ (a) Though the Fifth Amendment does not contain an equal protection clause, as does the Fourteenth Amendment, which applies only to the States, the concepts of equal protection and due process are not mutually exclusive. P. [499](#) .

✚ (b) Discrimination may be so unjustifiable as to be violative of due process. P. [499](#) .

✚ (c) Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause. Pp. [499-500](#) .

✚ (d) In view of this Court's decision in *Brown v. Board of Education*, ante p. [483](#) , that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government. P. [500](#) .

✚ (e) The case is restored to the docket for further argument on specified questions relating to the form of the decree. P. [500](#) . [p*498]

✚ Opinions

✚ WARREN, C.J., Opinion of the Court

✚ MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

✚ This case challenges the validity of segregation in the public schools of the District of Columbia. The petitioners, minors of the Negro race, allege that such segregation deprives them of due process of law under the Fifth Amendment. They were refused admission to a public school attended by white children solely because of their race. They sought the aid of the District Court for the District of Columbia in obtaining admission. That court dismissed their complaint. The Court granted a writ of certiorari before judgment in the Court of Appeals because of the importance of the constitutional question presented. 344 U.S. 873.

✚ We have this day held that the Equal Protection Clause of the Fourteenth Amendment prohibits the states from maintaining racially segregated public schools. [\[n1\]](#) The legal problem in the District of Columbia is somewhat [p*499] different, however. The Fifth Amendment, which is applicable in the District of Columbia, does not contain an equal protection clause, as does the Fourteenth Amendment, which applies only to the states. But the concepts of equal protection and due process, both stemming from

our American ideal of fairness, are not mutually exclusive. The "equal protection of the laws" is a more explicit safeguard of prohibited unfairness than "due process of law," and, therefore, we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process.^[n2]

✚ Classifications based solely upon race must be scrutinized with particular care, since they are contrary to our traditions, and hence constitutionally suspect.^[n3] As long ago as 1896, this Court declared the principle

✚ that the Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government, or by the States, against any citizen because of his race.^[n4]

✚ And in *Buchanan v. Warley*, [245 U.S. 60](#), the Court held that a statute which limited the right of a property owner to convey his property to a person of another race was, as an unreasonable discrimination, a denial of due process of law.

✚ Although the Court has not assumed to define "liberty" with any great precision, that term is not confined to mere freedom from bodily restraint. Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a [p*500] proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.

✚ In view of our decision that the Constitution prohibits the states from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.^[n5] We hold that racial segregation in the public schools of the District of Columbia is a denial of the due process of law guaranteed by the Fifth Amendment to the Constitution.

✚ For the reasons set out in *Brown v. Board of Education*, this case will be restored to the docket for reargument on Questions 4 and 5 previously propounded by the Court. 345 U.S. 972.

✚ *It is so ordered.*



BOYNTON v. VIRGINIA.
CERTIORARI TO THE SUPREME COURT OF APPEALS OF VIRGINIA.
No. 7.
Argued October 12, 1960.
Decided December 5, 1960.

For refusing to leave the section reserved for white people in a restaurant in a bus terminal, petitioner, a Negro interstate bus passenger, was convicted in Virginia courts of violating a state statute making it a misdemeanor for any person "without authority of law" to remain upon the premises of another after having been forbidden to do so. On appeal, he contended that his conviction violated the Interstate Commerce Act and the Equal Protection, Due Process and Commerce Clauses of the Federal Constitution; but his conviction was sustained by the State Supreme Court. On petition for certiorari to this Court, he raised only the constitutional questions. Held:

1. Notwithstanding the fact that the petition for certiorari presented only the constitutional questions, this Court will consider the statutory issue, which involves essentially the same problem - racial discrimination in interstate commerce. P. 457.

2. Under 216 (d) of the Interstate Commerce Act, which forbids any interstate common carrier by motor vehicle to subject any person to unjust discrimination, petitioner had a federal right to remain in the white portion of the restaurant, he was there "under authority of law," and it was error to affirm his conviction. Pp. 457-463.

(a) When a bus carrier has volunteered to make terminal and restaurant facilities and services available to its interstate passengers as a regular part of their transportation, and the terminal and restaurant have acquiesced and cooperated in this undertaking, the terminal and restaurant must perform these services without discriminations prohibited by the Act. Pp. 457-461.

(b) Although the courts below made no findings of fact, the evidence in this case shows such a situation here. Pp. 461-463.

Reversed.

BURTON v. WILMINGTON PKG. AUTH., 365 U.S. 715 (1961)

A restaurant located in a publicly owned and operated automobile parking building refused to serve appellant food or drink solely because he was a Negro. The building had been built with public funds for public purposes, and it was owned and operated by an agency of the State of Delaware, from which the private operator of the restaurant leased its premises. Claiming that refusal to serve him abridged his rights under the Equal Protection Clause of the Fourteenth Amendment, appellant sued in a state court for declaratory and injunctive relief against the restaurant and the state agency. The Supreme Court of Delaware held that he was not entitled to relief, on the ground that the restaurant's action was not state action within the meaning of the Fourteenth Amendment and that the restaurant was not required by a Delaware statute to serve all persons entering its place of business. An appeal was taken to this Court on the ground that the state statute had been construed unconstitutionally. Held:

1. The appeal is dismissed, since the judgment did not depend for its ultimate support upon a determination of the constitutional validity of the state statute; but, treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari is granted, since the case presents an important constitutional question under the Fourteenth Amendment. Pp. 717, 721.
 2. In view of all the circumstances of this case, including the facts that the restaurant was physically and financially an integral part of a public building, built and maintained with public funds, devoted to a public parking service, and owned and operated by an agency of the State for public purposes, the State was a joint participant in the operation of the restaurant, and its refusal to serve appellant violated the Equal Protection Clause of the Fourteenth Amendment. Pp. 721-726.
 3. When a State leases public property in the manner and for the purpose shown to have been the case here, the proscriptions of [365 U.S. 715, 716] the Fourteenth Amendment must be complied with by the lessee as certainly as though they were binding covenants written into the agreement itself. P. 726.
- ___ Del. ___, 157 A. 2d 894, reversed.

LOMBARD ET AL. v. LOUISIANA.
CERTIORARI TO THE SUPREME COURT OF LOUISIANA.
No. 58.
Argued November 5-7, 1962.
Decided May 20, 1963.

Petitioners, three Negro students and one white student, entered a store in New Orleans, La., sat at a lunch counter reserved for white people and requested service, which was refused. For refusing to leave when requested to do so by the manager of the store, they were convicted of violating the Louisiana Criminal Mischief Statute, which makes it a crime to refuse to leave a place of business after being ordered to do so by the person in charge of the premises. No state statute or city ordinance required racial segregation in restaurants; but both the Mayor and the Superintendent of Police had announced publicly that such "sit-in demonstrations" would not be permitted. Held: Petitioners' convictions violated the Equal Protection Clause of the Fourteenth Amendment. *Peterson v. City of Greenville*, ante, p. 244. Pp. 268-274.

241 La. 958, 132 So.2d 860, reversed.

JOHNSON v. VIRGINIA, 373 U.S. 61 (1963)

Petitioner, a Negro, was convicted of contempt of court solely because he refused to comply with a judge's instructions to sit in the section of a courtroom reserved for Negroes. Held: A State may not require racial segregation in a courtroom, and the conviction is reversed. Pp. 61-62.

Reversed.

PETERSON v. CITY OF GREENVILLE, 373 U.S. 244 (1963)

Petitioners, ten Negroes, entered a store in Greenville, S. C., and seated themselves at the lunch counter. The manager of the store did not request their arrest; but he sent for police, in whose presence he stated that the lunch counter was closed and requested everyone to leave the area. When petitioners failed to do so, they were arrested and later they were tried and convicted of violating a state trespass statute. The store manager testified that he had asked them to leave because to have served them would have been "contrary to local customs" of segregated service at lunch counters and would have violated a city ordinance requiring separation of the races in restaurants. Held: Petitioners' convictions for failure to leave the lunch counter violated the Equal Protection Clause of the Fourteenth Amendment, even if the manager would have acted as he did independently of the existence of the ordinance. Pp. 245-248.

239 S. C. 298, 122 S. E. 2d 826, reversed.

Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964) (USSC+)

✚ Syllabus

✚ Appellant, the owner of a large motel in Atlanta, Georgia, which restricts its clientele to white persons, three-fourths of whom are transient interstate travelers, sued for declaratory relief and to enjoin enforcement of the Civil Rights Act of 1964, contending that the prohibition of racial discrimination in places of public accommodation affecting commerce exceeded Congress' powers under the Commerce Clause and violated other parts of the Constitution. A three-judge District Court upheld the constitutionality of Title II, §§ 201(a), (b)(1) and (c)(1), the provisions attacked, and, on appellees' counterclaim, permanently enjoined appellant from refusing to accommodate Negro guests for racial reasons.

✚ Held:

✚ 1. Title II of the Civil Rights Act of 1964 is a valid exercise of Congress' power under the Commerce Clause as applied to a place of public accommodation serving interstate travelers. *Civil Right Cases*, [109 U.S. 3](#) , distinguished. Pp. [249-262](#) .

✚ (a) The interstate movement of persons is "commerce" which concerns more than one State. Pp. [255-256](#) .

✚ (b) The protection of interstate commerce is within the regulatory power of Congress under the Commerce Clause whether or not the transportation of persons between States is "commercial." P. [256](#) .

✚ (c) Congress' action in removing the disruptive effect which it found racial discrimination has on interstate travel is not invalidated because Congress was also legislating against what it considered to be moral wrongs. P. [257](#) .

✚ (d) Congress had power to enact appropriate legislation with regard to a place of public accommodation such as appellant's motel even if it is assumed to be of a purely "local" character, as Congress' power over interstate commerce extends to the regulation of local incidents thereof which might have a substantial and harmful effect upon that commerce. P. [258](#) .

✚ (2) The prohibition in Title II of racial discrimination in public accommodations affecting commerce does not violate the Fifth [p*242] Amendment as being a deprivation of property or liberty without due process of law. Pp. [258-261](#) .

✚ (3) Such prohibition does not violate the Thirteenth Amendment as being "involuntary servitude." P. [261](#) .

✚ 231 F.Supp. 393, affirmed.

KATZENBACH v. McCLUNG, 379 U.S. 294 (1964)

Appellees, whose restaurant in Birmingham, Alabama, caters to local white customers with take-out service for Negroes, serving food a substantial portion of which has moved in interstate commerce, sued to enjoin appellants from enforcing against their restaurant and others Title II of the Civil Rights Act of 1964 which they claimed was unconstitutional. A three-judge District Court granted an injunction, holding that there was no demonstrable connection between food purchased in interstate commerce and sold in a restaurant and Congress' conclusion that discrimination in the restaurant would affect commerce so as to warrant regulation of local activities to protect interstate commerce. Held:

1. Since interference with governmental action has occurred and the constitutionality of Title II is before the Court in a companion case, the Court reaches the merits of this case by considering the complaint as an application for declaratory judgment, instead of denying relief for want of equity jurisdiction as it would ordinarily do on the ground that appellees should have waited to pursue the statutory procedures for adjudication of their rights. Pp. 295-296.
2. Congress acted within its power to protect and foster commerce in extending coverage of Title II to restaurants serving food a substantial portion of which has moved in interstate commerce, since it had ample basis to conclude that racial discrimination by such restaurants burdened interstate trade. Pp. 300-305.

233 F. Supp. 815, reversed.

Solicitor General Cox argued the cause for appellants. With him on the brief were Assistant Attorney General Marshall, Ralph S. Spritzer, Philip B. Heymann, Harold H. Greene and Gerald P. Choppin.

Robert McDavid Smith argued the cause for appellees. With him on the briefs was William G. Somerville. [[379 U.S. 294, 295](#)]

Jack Greenberg, Constance Baker Motley, James M. Nabrit III and Charles L. Black, Jr., filed a brief for the NAACP Legal Defense and Educational Fund, Inc., as amicus curiae, urging reversal.

T. W. Bruton, Attorney General of North Carolina, and Ralph Moody, Deputy Attorney General, filed a brief for the State of North Carolina, as amicus curiae, urging affirmance.

MR. JUSTICE CLARK delivered the opinion of the Court.

This case was argued with No. 515, *Heart of Atlanta Motel v. United States*, decided this date, ante, p. 241, in which we upheld the constitutional validity of Title II of the Civil Rights Act of 1964 against an attack by hotels, motels, and like establishments. This complaint for injunctive relief against appellants attacks the constitutionality of the Act as applied to a restaurant. The case was heard by a three-judge United States District Court and an injunction was issued restraining appellants from enforcing the Act against the restaurant. 233 F. Supp. 815. On direct appeal, 28 U.S.C. 1252, 1253 (1958 ed.), we noted probable jurisdiction. [379 U.S. 802](#). We now reverse the judgment.

1. The Motion to Dismiss.

The appellants moved in the District Court to dismiss the complaint for want of equity jurisdiction and that claim is pressed here. The grounds are that the Act authorizes only preventive relief; that there has been no threat of enforcement against the appellees and that they have alleged no irreparable injury. It is true that ordinarily equity will not interfere in such cases. However, we may and do consider this complaint as an application for a declaratory judgment under 28 U.S.C. 2201 and 2202 (1958 ed.). In this case, of course, direct appeal to this Court would still lie under 28 U.S.C. 1252 (1958 [\[379 U.S. 294, 296\]](#) ed.). But even though Rule 57 of the Federal Rules of Civil Procedure permits declaratory relief although another adequate remedy exists, it should not be granted where a special statutory proceeding has been provided. See Notes on Rule 57 of Advisory Committee on Rules, 28 U.S.C. App. 5178 (1958 ed.). Title II provides for such a statutory proceeding for the determination of rights and duties arising thereunder, 204-207, and courts should, therefore, ordinarily refrain from exercising their jurisdiction in such cases.

The present case, however, is in a unique position. The interference with governmental action has occurred and the constitutional question is before us in the companion case of *Heart of Atlanta Motel* as well as in this case. It is important that a decision on the constitutionality of the Act as applied in these cases be announced as quickly as possible. For these reasons, we have concluded, with the above caveat, that the denial of discretionary declaratory relief is not required here.

2. The Facts.

Ollie's Barbecue is a family-owned restaurant in Birmingham, Alabama, specializing in barbecued meats and homemade pies, with a seating capacity of 220 customers. It is located on a state highway 11 blocks from an interstate one and a somewhat greater

distance from railroad and bus stations. The restaurant caters to a family and white-collar trade with a take-out service for Negroes. It employs 36 persons, two-thirds of whom are Negroes.

In the 12 months preceding the passage of the Act, the restaurant purchased locally approximately \$150,000 worth of food, \$69,683 or 46% of which was meat that it bought from a local supplier who had procured it from outside the State. The District Court expressly found that a substantial portion of the food served in the restaurant [379 U.S. 294, 297] had moved in interstate commerce. The restaurant has refused to serve Negroes in its dining accommodations since its original opening in 1927, and since July 2, 1964, it has been operating in violation of the Act. The court below concluded that if it were required to serve Negroes it would lose a substantial amount of business.

On the merits, the District Court held that the Act could not be applied under the Fourteenth Amendment because it was conceded that the State of Alabama was not involved in the refusal of the restaurant to serve Negroes. It was also admitted that the Thirteenth Amendment was authority neither for validating nor for invalidating the Act. As to the Commerce Clause, the court found that it was "an express grant of power to Congress to regulate interstate commerce, which consists of the movement of persons, goods or information from one state to another"; and it found that the clause was also a grant of power "to regulate intrastate activities, but only to the extent that action on its part is necessary or appropriate to the effective execution of its expressly granted power to regulate interstate commerce." There must be, it said, a close and substantial relation between local activities and interstate commerce which requires control of the former in the protection of the latter. The court concluded, however, that the Congress, rather than finding facts sufficient to meet this rule, had legislated a conclusive presumption that a restaurant affects interstate commerce if it serves or offers to serve interstate travelers or if a substantial portion of the food which it serves has moved in commerce. This, the court held, it could not do because there was no demonstrable connection between food purchased in interstate commerce and sold in a restaurant and the conclusion of Congress that discrimination in the restaurant would affect that commerce. [379 U.S. 294, 298]

The basic holding in *Heart of Atlanta Motel*, answers many of the contentions made by the appellees. ¹ There we outlined the overall purpose and operational plan of Title II and found it a valid exercise of the power to regulate interstate commerce insofar as it requires hotels and motels to serve transients without regard to their race or color. In this case we consider its application to restaurants which serve food a substantial portion of which has moved in commerce.

3. The Act As Applied.

Section 201 (a) of Title II commands that all persons shall be entitled to the full and equal enjoyment of the goods and services of any place of public accommodation without discrimination or segregation on the ground of race, color, religion, or national origin; and 201 (b) defines establishments as places of public accommodation if their operations affect commerce or segregation by them is supported by state action. Sections 201 (b) (2) and (c) place any "restaurant . . . principally engaged in selling food

for consumption on the premises" under the Act "if . . . it serves or offers to serve interstate travelers or a substantial portion of the food which it serves . . . has moved in commerce."

Ollie's Barbecue admits that it is covered by these provisions of the Act. The Government makes no contention that the discrimination at the restaurant was supported by the State of Alabama. There is no claim that interstate travelers frequented the restaurant. The sole question, therefore, narrows down to whether Title II, as applied to a restaurant annually receiving about \$70,000 worth of food which has moved in commerce, is a valid exercise of the power of Congress. The Government [379 U.S. 294, 299] has contended that Congress had ample basis upon which to find that racial discrimination at restaurants which receive from out of state a substantial portion of the food served does, in fact, impose commercial burdens of national magnitude upon interstate commerce. The appellees' major argument is directed to this premise. They urge that no such basis existed. It is to that question that we now turn.

4. The Congressional Hearings.

As we noted in *Heart of Atlanta Motel* both Houses of Congress conducted prolonged hearings on the Act. And, as we said there, while no formal findings were made, which of course are not necessary, it is well that we make mention of the testimony at these hearings the better to understand the problem before Congress and determine whether the Act is a reasonable and appropriate means toward its solution. The record is replete with testimony of the burdens placed on interstate commerce by racial discrimination in restaurants. A comparison of per capita spending by Negroes in restaurants, theaters, and like establishments indicated less spending, after discounting income differences, in areas where discrimination is widely practiced. This condition, which was especially aggravated in the South, was attributed in the testimony of the Under Secretary of Commerce to racial segregation. See Hearings before the Senate Committee on Commerce on S. 1732, 88th Cong., 1st Sess., 695. This diminutive spending springing from a refusal to serve Negroes and their total loss as customers has, regardless of the absence of direct evidence, a close connection to interstate commerce. The fewer customers a restaurant enjoys the less food it sells and consequently the less it buys. S. Rep. No. 872, 88th Cong., 2d Sess., at 19; Senate Commerce Committee Hearings, at 207. In addition, the Attorney General testified that this type of discrimination imposed "an artificial restriction on the market" and interfered [379 U.S. 294, 300] with the flow of merchandise. *Id.*, at 18-19; also, on this point, see testimony of Senator Magnuson, 110 Cong. Rec. 7402-7403. In addition, there were many references to discriminatory situations causing wide unrest and having a depressant effect on general business conditions in the respective communities. See, e. g., Senate Commerce Committee Hearings, at 623-630, 695-700, 1384-1385.

Moreover there was an impressive array of testimony that discrimination in restaurants had a direct and highly restrictive effect upon interstate travel by Negroes. This resulted, it was said, because discriminatory practices prevent Negroes from buying prepared food served on the premises while on a trip, except in isolated and unkempt restaurants and under most unsatisfactory and often unpleasant conditions. This obviously discourages travel and obstructs interstate commerce for one can hardly travel without

eating. Likewise, it was said, that discrimination deterred professional, as well as skilled, people from moving into areas where such practices occurred and thereby caused industry to be reluctant to establish there. S. Rep. No. 872, *supra*, at 18-19.

We believe that this testimony afforded ample basis for the conclusion that established restaurants in such areas sold less interstate goods because of the discrimination, that interstate travel was obstructed directly by it, that business in general suffered and that many new businesses refrained from establishing there as a result of it. Hence the District Court was in error in concluding that there was no connection between discrimination and the movement of interstate commerce. The court's conclusion that such a connection is outside "common experience" flies in the face of stubborn fact.

It goes without saying that, viewed in isolation, the volume of food purchased by Ollie's Barbecue from sources supplied from out of state was insignificant when [\[379 U.S. 294, 301\]](#) compared with the total foodstuffs moving in commerce. But, as our late Brother Jackson said for the Court in *Wickard v. Filburn*, [317 U.S. 111](#) (1942):

"That appellee's own contribution to the demand for wheat may be trivial by itself is not enough to remove him from the scope of federal regulation where, as here, his contribution, taken together with that of many others similarly situated, is far from trivial." At 127-128.

We noted in *Heart of Atlanta Motel* that a number of witnesses attested to the fact that racial discrimination was not merely a state or regional problem but was one of nationwide scope. Against this background, we must conclude that while the focus of the legislation was on the individual restaurant's relation to interstate commerce, Congress appropriately considered the importance of that connection with the knowledge that the discrimination was but "representative of many others throughout the country, the total incidence of which if left unchecked may well become far-reaching in its harm to commerce." *Polish Alliance v. Labor Board*, [322 U.S. 643, 648](#) (1944).

With this situation spreading as the record shows, Congress was not required to await the total dislocation of commerce. As was said in *Consolidated Edison Co. v. Labor Board*, [305 U.S. 197](#) (1938):

"But it cannot be maintained that the exertion of federal power must await the disruption of that commerce. Congress was entitled to provide reasonable preventive measures and that was the object of the National Labor Relations Act." At 222.

5. The Power of Congress to Regulate Local Activities.

Article I, 8, cl. 3, confers upon Congress the power "[t]o regulate Commerce . . . among the several States" and Clause 18 of the same Article grants it the power [\[379 U.S. 294, 302\]](#) "[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers" This grant, as we have pointed out in *Heart of Atlanta Motel* "extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce." *United States v. Wrightwood Dairy Co.*,

[315 U.S. 110, 119](#) (1942). Much is said about a restaurant business being local but "even if appellee's activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce" *Wickard v. Filburn*, *supra*, at 125. The activities that are beyond the reach of Congress are "those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government." *Gibbons v. Ogden*, 9 Wheat. 1, 195 (1824). This rule is as good today as it was when Chief Justice Marshall laid it down almost a century and a half ago.

This Court has held time and again that this power extends to activities of retail establishments, including restaurants, which directly or indirectly burden or obstruct interstate commerce. We have detailed the cases in *Heart of Atlanta Motel*, and will not repeat them here.

Nor are the cases holding that interstate commerce ends when goods come to rest in the State of destination apposite here. That line of cases has been applied with reference to state taxation or regulation but not in the field of federal regulation.

The appellees contend that Congress has arbitrarily created a conclusive presumption that all restaurants [\[379 U.S. 294, 303\]](#) meeting the criteria set out in the Act "affect commerce." Stated another way, they object to the omission of a provision for a case-by-case determination - judicial or administrative - that racial discrimination in a particular restaurant affects commerce.

But Congress' action in framing this Act was not unprecedented. In *United States v. Darby*, [312 U.S. 100](#) (1941), this Court held constitutional the Fair Labor Standards Act of 1938. ² There Congress determined that the payment of substandard wages to employees engaged in the production of goods for commerce, while not itself commerce, so inhibited it as to be subject to federal regulation. The appellees in that case argued, as do the appellees here, that the Act was invalid because it included no provision for an independent inquiry regarding the effect on commerce of substandard wages in a particular business. (Brief for appellees, pp. 76-77, *United States v. Darby*, [312 U.S. 100](#).) But the Court rejected the argument, observing that:

"[S]ometimes Congress itself has said that a particular activity affects the commerce, as it did in the present Act, the Safety Appliance Act and the Railway Labor Act. In passing on the validity of legislation of the class last mentioned the only function of courts is to determine whether the particular activity regulated or prohibited is within the reach of the federal power." At 120-121.

Here, as there, Congress has determined for itself that refusals of service to Negroes have imposed burdens both upon the interstate flow of food and upon the movement of products generally. Of course, the mere fact that Congress has said when particular activity shall be deemed to affect commerce does not preclude further examination by this Court. But where we find that the legislators, in [\[379 U.S. 294, 304\]](#) light of the facts and testimony before them, have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end. The only remaining question - one answered in the affirmative by the court below - is

whether the particular restaurant either serves or offers to serve interstate travelers or serves food a substantial portion of which has moved in interstate commerce.

The appellees urge that Congress, in passing the Fair Labor Standards Act and the National Labor Relations Act, [3](#) made specific findings which were embodied in those statutes. Here, of course, Congress has included no formal findings. But their absence is not fatal to the validity of the statute, see *United States v. Carolene Products Co.*, [304 U.S. 144, 152](#) (1938), for the evidence presented at the hearings fully indicated the nature and effect of the burdens on commerce which Congress meant to alleviate.

Confronted as we are with the facts laid before Congress, we must conclude that it had a rational basis for finding that racial discrimination in restaurants had a direct and adverse effect on the free flow of interstate commerce. Insofar as the sections of the Act here relevant are concerned, 201 (b) (2) and (c), Congress prohibited discrimination only in those establishments having a close tie to interstate commerce, i. e., those, like the McClungs', serving food that has come from out of the State. We think in so doing that Congress acted well within its power to protect and foster commerce in extending the coverage of Title II only to those restaurants offering to serve interstate travelers or serving food, a substantial portion of which has moved in interstate commerce.

The absence of direct evidence connecting discriminatory restaurant service with the flow of interstate food, [\[379 U.S. 294, 305\]](#) a factor on which the appellees place much reliance, is not, given the evidence as to the effect of such practices on other aspects of commerce, a crucial matter.

The power of Congress in this field is broad and sweeping; where it keeps within its sphere and violates no express constitutional limitation it has been the rule of this Court, going back almost to the founding days of the Republic, not to interfere. The Civil Rights Act of 1964, as here applied, we find to be plainly appropriate in the resolution of what the Congress found to be a national commercial problem of the first magnitude. We find it in no violation of any express limitations of the Constitution and we therefore declare it valid.

The judgment is therefore

Reversed.

ANDERSON v. MARTIN, 375 U.S. 399 (1964)

Appellants, residents of a Louisiana parish, are Negroes. Both sought election to the parish School Board in the 1962 Democratic Party primary election. Prior to the election they filed this suit in federal court to enjoin the enforcement of Louisiana Revised Statutes 18:1174.1, which requires that in all primary, general or special elections, the nomination papers and ballots shall designate the race of the candidates. A three-judge District Court upheld the constitutionality of the statute. Held: The compulsory designation by Louisiana of the race of the candidate on the ballot operates as a discrimination against appellants and is violative of the Equal Protection Clause of the Fourteenth Amendment of the Federal Constitution. Pp. 402-404.

(a) The vice of the statute lies in the placing of the power of the State behind a racial classification that induces racial prejudice at the polls. P. 402.

(b) The challenged provision of the statute cannot be deemed to be reasonably designed to meet legitimate governmental interests in informing the electorate as to candidates. P. 403.

(c) The contention that the statute is nondiscriminatory because the labeling provision applies equally to Negro and white cannot be sustained. Pp. 403-404. 206 F. Supp. 700, reversed.

ROBINSON v. FLORIDA, 378 U.S. 153 (1964)

Following refusal by appellants, Negroes and whites, to leave a Miami, Florida, restaurant, they were arrested and convicted under a state misdemeanor statute proscribing a guest's remaining at a restaurant after having been asked to leave by the management. The State Supreme Court affirmed, holding the statute did not deny equal protection of the laws. At the time of the arrest a State Health Board regulation applicable to restaurants and adopted under the legislature's authority required segregated rest rooms and the State had issued a manual based on state regulations requiring segregated facilities. Held: The regulations embodying a state policy which discouraged serving the two races together, involved the State so significantly in causing restaurant segregation as to violate the Equal Protection Clause of the Fourteenth Amendment. *Peterson v. City of Greenville*, [373 U.S. 244](#), followed. Pp. 153-157.

144 So.2d 811, reversed.

HAMM v. ROCK HILL, 379 U.S. 306 (1964)

[[Footnote *](#)] Together with No. 5, Lupper et al. v. Arkansas, on certiorari to the Supreme Court of Arkansas.

The petitioners, who are Negroes, were convicted for violations of state trespass statutes for participating in "sit-ins" at lunch counters of retail stores. It was conceded that the lunch-counter operations would probably come within the coverage of the Civil Rights Act of 1964, which was passed subsequent to the convictions and the affirmances thereof in the state courts. Held:

1. The Act creates federal statutory rights which under the Supremacy Clause must prevail over any conflicting state laws. Pp. 310-312.
 2. These convictions, being on direct review at the time the Act made the conduct no longer unlawful, must abate. Pp. 312-317.
 - (a) Had these been federal convictions they would have abated, Congress presumably having intended to avoid punishment no longer furthering a legislative purpose, and the general federal saving statute being inapplicable to a statute like this which substitutes a right for what was previously criminal. Pp. 312-314.
 - (b) Though these were state convictions their abatement is likewise required not only under the Supremacy Clause and because the pending convictions are contrary to the legislative purpose of the Act but also because abatement is a necessary part of every statute which repeals criminal legislation. Pp. 314-317.
- 241 S. C. 420, 128 S. E. 2d 907; 236 Ark. 596, 367 S. W. 2d 750, judgments vacated and charges ordered dismissed

BELL v. MARYLAND, 378 U.S. 226 (1964)

Petitioners, Negro "sit-in" demonstrators, were asked to leave a Baltimore restaurant solely because of their race, refused to do so, and were convicted of violating Maryland's criminal trespass law. The convictions were affirmed by the highest state court. Subsequent to that affirmance, and prior to disposition of the case on writ of certiorari in this Court, the City of Baltimore and the State of Maryland enacted "public accommodations" laws, applicable to Baltimore, making it unlawful for restaurants to deny their services to any person because of his race. Held: The judgments of the Maryland Court of Appeals are vacated and reversed and the case is remanded to that court, so that it may consider whether the convictions should be nullified in view of the supervening change in state law. Pp. 227-242.

(a) The effect of the public accommodations laws appears to be that petitioners' conduct in refusing to leave the restaurant after being asked to do so because of their race would not be a crime today; that conduct is now recognized as the exercise of a right, and the law's prohibition is directed not at them but at the restaurant proprietor who would deny them service because of their race. P. 230.

(b) The common-law rule, followed in Maryland, requires the dismissal of pending criminal proceedings charging conduct which, because of a supervening change in state law, is no longer deemed criminal; that rule would apparently apply to this case, which was pending in this Court at the time of the supervening legislation. Pp. 230-232.

(c) Although Maryland has a "saving clause" statute which in certain circumstances saves state convictions from the effect of that rule, there is reason to doubt that the statute would be held applicable to this case. Pp. 232-237.

(d) When a change in the applicable state law intervenes between decision of a case by the highest state court and decision on review here, the Court's practice is to vacate and reverse the judgment and remand the case to the state court, so that it may [378 U.S. 226, 227] reconsider it in the light of the change in state law; that practice should be followed here. Pp. 237-242.

227 Md. 302, 176 A. 2d 771, vacated, reversed, and remanded.

UNITED STATES v. MISSISSIPPI, 380 U.S. 128 (1965)

Charging that appellees, the State of Mississippi, the Election Commissioners, and six voting registrars of that State were destroying the right of Mississippi Negroes to vote, the United States brought this action for relief under 42 U.S.C. 1971 (d) and other provisions. The complaint alleged a long-standing, carefully executed plan to keep Negroes in Mississippi from voting. It stated that in 1890, in order to restrict the Negro franchise, a new constitution was adopted, 244 of which established as a voting prerequisite reading, understanding, or giving a reasonable interpretation of a section of the state constitution; that this provision, when coupled with Negro ineligibility until about 1952 to vote in the decisive Democratic primary election, within nine years reduced the percentage of qualified voters who were Negroes from over 50% to about 9% and by 1954 only about 5% of Negroes of voting age were registered; that in 1954, 244 was amended to make all of its previously alternative requirements apply and to make an applicant additionally demonstrate "a reasonable understanding of the duties and obligations of citizenship," a requirement which registrars allegedly have applied in a racially discriminatory manner; that in 1960 two discriminatory voting statutes were adopted, one imposing a "good moral character" qualification, and the other (contrary to federal law) permitting destruction of some voting records; and that in 1962 a "package" of legislation was enacted further to impede Negro voting registration. The District Court dismissed the complaint for failure to state a claim upon which relief could be granted, held that the Election Commissioners were not proper parties, that the registrars could not be sued jointly, and that venue was improper as to some. Held:

1. Section 1971 (a) of Title 42 U.S.C. guarantees the right of citizens "who are otherwise qualified by law" to vote at any election without racial distinction, and subsection (c) authorizes the Attorney General to sue for preventive relief to protect that right regardless of whether it is threatened by invalid laws or valid laws discriminatorily applied. Pp. 136-138. [\[380 U.S. 128, 129\]](#)
2. Section 1971 (c) authorizes the Attorney General to make the State a defendant whether or not the office of registrar is vacant. Pp. 138-141.
3. Since under state law the Election Commissioners have the duty to help administer the voter registration laws by formulating rules for tests applied to applicants, the Commissioners were properly named as defendants. Pp. 141-142.
4. The registrars, who were charged with taking part in a state-wide scheme to keep Negroes from voting for racial reasons, were properly joined as defendants in one suit, Rule 20 (a) of the Federal Rules of Civil Procedure providing for joinder where there is asserted a right to relief arising out of the same transaction or series of transactions and where any question of law or fact common to all will arise in the action; and therefore the venue as to those outside the district and division where the District Court sat was properly laid under 28 U.S.C. 1392 (a) and 1393 (b). Pp. 142-143.
5. The complaint charging that the State of Mississippi and its officials for over three quarters of a century had enacted and enforced constitutional provisions, statutes, rules and regulations, and engaged in discriminatory practices, to keep the number of white voters as high and the number of Negro voters as low as possible, stated a cause of action and it was error to dismiss the complaint without trial. Pp. 143-144. 229 F. Supp. 925, reversed and remanded.

LOVING v. VIRGINIA, 388 U.S. 1 (1967)

Virginia's statutory scheme to prevent marriages between persons solely on the basis of racial classifications held to violate the Equal Protection and Due Process Clauses of the Fourteenth Amendment. Pp. 4-12.

206 Va. 924, 147 S. E. 2d 78, reversed.

Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968) (USSC+)

✚ CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

✚ Syllabus

✚ Petitioners, alleging that respondents had refused to sell them a home for the sole reason that petitioner Joseph Lee Jones is a Negro, filed a complaint in the District Court, seeking injunctive and other relief. Petitioners relied in part upon 42 U.S.C. § 1982, which provides that all citizens

✚ shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

✚ The District Court dismissed the complaint, and the Court of Appeals affirmed, concluding that § 1982 applies only to state action, and does not reach private refusals to sell.

✚ *Held:*

✚ 1. Congress' enactment of the Civil Rights Act of 1968, containing in Title VIII detailed housing provisions applicable to a broad range of discriminatory practices and enforceable by a complete arsenal of federal authority, had no effect upon this litigation or upon § 1982, a general statute limited to racial discrimination in the sale and rental of property and enforceable only by private parties acting on their own initiative. Pp. 413-417.

✚ 2. Section 1982 applies to all racial discrimination in the sale or rental of property. Pp. 417-437.

✚ (a) Section 1982 has previously been construed to do more than grant Negro citizens the general legal capacity to buy and rent property free of prohibitions that wholly disable them because of their race. *Hurd v. Hodge*, 334 U.S. 24. Pp. 417-419.

✚ (b) The question whether purely private discrimination, unaided by any governmental action, violates § 1982 remains one of first impression in this Court. *Hurd v. Hodge*,

supra; *Corrigan v. Buckley*, 271 U.S. 323; the *Civil Rights Cases*, [109 U.S. 3](#) , and *Virginia v. Rives*, 100 U.S. 313, distinguished. Pp. 419-420.

✚ (c) On its face, the language of § 1982 appears to prohibit all discrimination against Negroes in the sale or rental of property. Pp. 420-422.

✚ (d) The legislative history of § 1982, which was part of § 1 of the Civil Rights Act of 1866, likewise shows that both Houses of Congress believed that they were enacting a comprehensive statute [p*410] forbidding every form of racial discrimination affecting the basic civil rights enumerated therein -- including the right to purchase or lease property -- and thereby securing all such rights against interference from any source whatever, whether governmental or private. Pp. 422-436.

✚ (e) The scope of the 1866 Act was not altered when it was reenacted in 1870, two years after ratification of the Fourteenth Amendment. Pp. 436-437.

✚ (f) That § 1982 lay partially dormant for many years does not diminish its force today. P. 437.

✚ 3. Congress has power under the Thirteenth Amendment to do what 42 U.S.C. § 1982 purports to do. Pp. 437-444.

✚ (a) Because the Thirteenth Amendment

✚ is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States,

✚ *Civil Rights Cases*, [109 U.S. 3](#) , [20](#) , it has never been doubted "that the power vested in Congress to enforce the article by appropriate legislation," *ibid.*, includes the power to enact laws "operating upon the acts of individuals, whether sanctioned by State legislation or not." *Id.* at 23. See *Clyatt v. United States*, 197 U.S. 207. P. 438.

✚ (b) The Thirteenth Amendment authorized Congress to do more than merely dissolve the legal bond by which the Negro slave was held to his master; it gave Congress the power rationally to determine what are the badges and the incidents of slavery and the authority to translate that determination into effective legislation. Pp. 439-440.

c) Whatever else they may have encompassed, the badges and incidents of slavery that the Thirteenth Amendment empowered Congress to eliminate included restraints upon

✚ those fundamental rights which are the essence of civil freedom, namely, the same right . . . to inherit, purchase, lease, sell and convey property, as is enjoyed by white citizens.

Civil Rights Cases, [109 U.S. 3](#) , [22](#) . Insofar as *Hodges v. United States*, 203 U.S. 1, suggests a contrary holding, it is overruled. Pp. 441-443. ✚ 379 F.2d 33, reversed. [p*412]

HADNOTT v. AMOS, 394 U.S. 358 (1969)

Appellants, the National Democratic Party of Alabama (NDPA) and some of its officers and candidates (mostly Negroes) in the November 1968 general election, brought suit against respondents, state officials, seeking to enjoin enforcement of certain Alabama election laws which appellants claimed were unconstitutional on their face and had been discriminatorily used by appellees to keep various NDPA candidates from being on the ballot in that election. These laws included (1) Ala. Code, Tit. 17, 274 (1958), which required a candidate within five days after the announcement of his candidacy to file a statement designating his finance committee and (2) the "Garrett Act" of 1967, which required independent candidates, who prior to that law could file declarations of intent after nomination by mass meeting in May, to do so by March 1, when primary candidates had to file. A three-judge District Court entered a temporary restraining order enjoining the appropriate Alabama officials from using ballots at the 1968 general election which did not include the names of the NDPA candidates. Appellees' answer challenged the qualifications of those candidates for failure to comply with the Alabama laws. After a hearing the District Court dissolved the temporary injunction and upheld the Alabama statutes on their face and as applied. This Court on appellants' application and after oral argument ordered the District Court's temporary restraining order continued pending action on the jurisdictional statement. The NDPA candidates were elected to various offices in Etowah, Marengo, and Sumter Counties and apparently would have been elected in Greene County had their names appeared on the ballot. There Probate Judge Herndon, who was responsible for preparing the ballot, omitted the names of the NDPA candidates on the ground that they had not filed a second 274 designation after the Democratic primary of May 7, 1968, in which they had been candidates (although the successful white candidates filed no second designation after that date), and that "to the best of [his] knowledge and belief" the NDPA had held no mass meeting to choose candidates for the general election on that date as they claimed to have done (in [394 U.S. 358, 359] accordance with an Alabama law that local candidates not selected in primaries be nominated by mass meeting the first Tuesday in May of the election year). Herndon later admitted knowing that the NDPA candidates had made the 274 designation in February 1968 before they entered the primary and that the NDPA mass meeting might have been held without his having known about it. After the election appellants filed in this Court a motion to show cause why Judge Herndon should not be held in contempt and why the Greene County election should not be set aside and a new election held. The District Court (in response to a motion by the United States) issued a rule to show cause why the Greene County election should not be enjoined, and the court stayed giving effect to that election. Held:

1. The disqualification in the 1968 election of the NDPA candidates on the ground that they failed to meet requirements under the Alabama Corrupt Practices Act which their opponents did not have to meet constituted, on the record here, an unequal application of the law in violation of the Equal Protection Clause of the Fourteenth Amendment. Pp. 361-364.
2. Disqualification of the NDPA candidates for failure to comply with the Garrett Act was unlawful since that Act, which imposed increased barriers on independent candidates, was inoperative because the Alabama officials had

failed to meet the approval requirements of 5 of the Voting Rights Act of 1965. *Whitley v. Williams*, [393 U.S. 544](#). Pp. 365-366.

3. The case is remanded to the District Court with directions (1) to order the prevailing NDPA candidates in Etowah, Marengo, and Sumter Counties to be treated as elected and (2) to require the officials to hold a new election in Greene County for the offices contested by NDPA candidates, whose names shall appear on the ballots. P. 367.

295 F. Supp. 1003, reversed and remanded.

GRIGGS v. DUKE POWER CO., 401 U.S. 424 (1971)

Negro employees at respondent's generating plant brought this action, pursuant to Title VII of the Civil Rights Act of 1964, challenging respondent's requirement of a high school diploma or passing of intelligence tests as a condition of employment in or transfer to jobs at the plant. These requirements were not directed at or intended to measure ability to learn to perform a particular job or category of jobs. While 703 (a) of the Act makes it an unlawful employment practice for an employer to limit, segregate, or classify employees to deprive them of employment opportunities or adversely to affect their status because of race, color, religion, sex, or national origin, 703 (h) authorizes the use of any professionally developed ability test, provided that it is not designed, intended, or used to discriminate. The District Court found that respondent's former policy of racial discrimination had ended, and that Title VII, being prospective only, did not reach the prior inequities. The Court of Appeals reversed in part, rejecting the holding that residual discrimination arising from prior practices was insulated from remedial action, but agreed with the lower court that there was no showing of discriminatory purpose in the adoption of the diploma and test requirements. It held that, absent such discriminatory purpose, use of the requirements was permitted, and rejected the claim that because a disproportionate number of Negroes was rendered ineligible for promotion, transfer, or employment, the requirements were unlawful unless shown to be job related. Held:

1. The Act requires the elimination of artificial, arbitrary, and unnecessary barriers to employment that operate invidiously to discriminate on the basis of race, and, if, as here, an employment practice that operates to exclude Negroes cannot be shown to be related to job performance, it is prohibited, notwithstanding the employer's lack of discriminatory intent. Pp. 429-433.
 2. The Act does not preclude the use of testing or measuring procedures, but it does proscribe giving them controlling force unless [401 U.S. 424, 425] they are demonstrably a reasonable measure of job performance. Pp. 433-436.
- 420 F.2d 1225, reversed in part.

BURGER, C. J., delivered the opinion of the Court, in which all members joined except BRENNAN, J., who took no part in the consideration or decision of the case.

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted the writ in this case to resolve the question whether an employer is prohibited by the Civil Rights Act of 1964, Title VII, from requiring a high school education [401 U.S. 424, 426] or passing of a standardized general intelligence test as a condition of employment in or transfer to jobs when (a) neither standard is shown to be significantly related to successful job performance, (b) both requirements operate to disqualify Negroes at a substantially higher rate than white applicants, and (c) the jobs in question formerly had been filled only by white employees as part of a longstanding practice of giving preference to whites. [1](#)

Nothing in the Act precludes the use of testing or measuring procedures; obviously they are useful. What Congress has forbidden is giving these devices and mechanisms controlling force unless they are demonstrably a reasonable measure of job performance. Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and sex become irrelevant. What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract.

The judgment of the Court of Appeals is, as to that portion of the judgment appealed from, reversed.

UNIVERSITY OF CALIFORNIA REGENTS v. BAKKE, 438 U.S. 265 (1978)

The Medical School of the University of California at Davis (hereinafter Davis) had two admissions programs for the entering class of 100 students - the regular admissions program and the special admissions program. Under the regular procedure, candidates whose overall under-graduate grade point averages fell below 2.5 on a scale of 4.0 were summarily rejected. About one out of six applicants was then given an interview, following which he was rated on a scale of 1 to 100 by each of the committee members (five in 1973 and six in 1974), his rating being based on the interviewers' summaries, his overall grade point average, his science courses grade point average, his Medical College Admissions Test (MCAT) scores, letters of recommendation, extracurricular activities, and other biographical data, all of which resulted in a total "benchmark score." The full admissions committee then made offers of admission on the basis of their review of the applicant's file and his score, considering and acting upon applications as they were received. The committee chairman was responsible for placing names on the waiting list and had discretion to include persons with "special skills." A separate committee, a majority of whom were members of minority groups, operated the special admissions program. The 1973 and 1974 application forms, respectively, asked candidates whether they wished to be considered as "economically and/or educationally disadvantaged" applicants and members of a "minority group" (blacks, Chicanos, Asians, American Indians). If an applicant of a minority group was found to be "disadvantaged," he would be rated in a manner similar to the one employed by the general admissions committee. Special candidates, however, did not have to meet the 2.5 grade point cutoff and were not ranked against candidates in the general admissions process. About one-fifth of the special applicants were invited for interviews in 1973 and 1974, following which they were given benchmark scores, and the top choices were then given to the general admissions committee, which could reject special candidates for failure to meet course requirements or other specific deficiencies. The special committee continued to recommend candidates until 16 special admission selections had been made. During a four-year period 63 minority [438 U.S. 265, 266] students were admitted to Davis under the special program and 44 under the general program. No disadvantaged whites were admitted under the special program, though many applied. Respondent, a white male, applied to Davis in 1973 and 1974, in both years being considered only under the general admissions program. Though he had a 468 out of 500 score in 1973, he was rejected since no general applicants with scores less than 470 were being accepted after

respondent's application, which was filed late in the year, had been processed and completed. At that time four special admission slots were still unfilled. In 1974 respondent applied early, and though he had a total score of 549 out of 600, he was again rejected. In neither year was his name placed on the discretionary waiting list. In both years special applicants were admitted with significantly lower scores than respondent's. After his second rejection, respondent filed this action in state court for mandatory, injunctive, and declaratory relief to compel his admission to Davis, alleging that the special admissions program operated to exclude him on the basis of his race in violation of the Equal Protection Clause of the Fourteenth Amendment, a provision of the California Constitution, and 601 of Title VI of the Civil Rights Act of 1964, which provides, inter alia, that no person shall on the ground of race or color be excluded from participating in any program receiving federal financial assistance. Petitioner cross-claimed for a declaration that its special admissions program was lawful. The trial court found that the special program operated as a racial quota, because minority applicants in that program were rated only against one another, and 16 places in the class of 100 were reserved for them. Declaring that petitioner could not take race into account in making admissions decisions, the program was held to violate the Federal and State Constitutions and Title VI. Respondent's admission was not ordered, however, for lack of proof that he would have been admitted but for the special program. The California Supreme Court, applying a strict-scrutiny standard, concluded that the special admissions program was not the least intrusive means of achieving the goals of the admittedly compelling state interests of integrating the medical profession and increasing the number of doctors willing to serve minority patients. Without passing on the state constitutional or federal statutory grounds the court held that petitioner's special admissions program violated the Equal Protection Clause. Since petitioner could not satisfy its burden of demonstrating that respondent, absent the special program, would not have been admitted, the court ordered his admission to Davis.

Held: The judgment below is affirmed insofar as it orders respondent's admission to Davis and invalidates petitioner's special admissions program, [438 U.S. 265, 267] but is reversed insofar as it prohibits petitioner from taking race into account as a factor in its future admissions decisions.

18 Cal. 3d 34, 553 P.2d 1152, affirmed in part and reversed in part.

MR. JUSTICE POWELL, concluded:

1. Title VI proscribes only those racial classifications that would violate the Equal Protection Clause if employed by a State or its agencies. Pp. 281-287.
2. Racial and ethnic classifications of any sort are inherently suspect and call for the most exacting judicial scrutiny. While the goal of achieving a diverse student body is sufficiently compelling to justify consideration of race in admissions decisions under some circumstances, petitioner's special admissions program, which forecloses consideration to persons like respondent, is unnecessary to the achievement of this compelling goal and therefore invalid under the Equal Protection Clause. Pp. 287-320.
3. Since petitioner could not satisfy its burden of proving that respondent would not have been admitted even if there had been no special admissions program, he must be admitted. P. 320.

MORE THAN 42,000 CIVIL RIGHTS COMPLAINTS FILED IN FEDERAL DISTRICT COURTS DURING 1998

WASHINGTON, D.C. -- More than 42,000 complaints alleging civil rights violations, such as discrimination in employment, housing, welfare benefits and voting rights were filed during 1998 in U.S. district courts, the Justice Department's Bureau of Justice Statistics (BJS) announced today. Between 1990 and 1998 the number of such cases more than doubled; this growth was largely attributable to employment cases between private parties, which rose from nearly 7,000 cases in 1990 to more than 21,000 in 1998.

Federal civil rights cases accounted for about 9 percent of all civil cases filed in U.S. district courts in 1990, but by 1998 they accounted for 17 percent of all federal civil cases. During the same years the percentage of civil rights-related complaints terminated by trial verdicts dropped from 8 percent to 5 percent, while dismissals increased from 66 percent to 71 percent.

Trial verdicts decided by juries went from 48 percent of all civil rights trials in 1990 to 77 percent in 1998.

During the 1990-1998 period plaintiffs won just under a third of civil rights trials on average, and the percentage awarded monetary damages declined from 83 percent in 1990 to 76 percent in 1998. The percentage of plaintiffs who won their cases and were awarded \$10 million or more, increased from 1 percent in 1990 to 9 percent in 1998. In 1998 the median awards ranged from \$137,000 in employment cases to \$65,000 in housing cases.

On average, plaintiffs won 35 percent of jury trials annually, compared to 23 percent of the trials decided by judges.

Employment discrimination cases nearly tripled between 1990 and 1998, increasing from 8,413 filings to 23,735. Housing and accommodation cases (allegations of discrimination in the rental, sale or financing of housing and public accommodation in restaurants and hotels) rose from 341 to 838 cases in the period, while welfare

discrimination complaints declined from 129 to 66 cases. Voting rights complaints peaked in 1992 but remained fairly constant during the rest of the period, averaging about 220 annually.

Civil rights complaints filed by state and federal prison inmates increased from 25,992 in 1990 to 41,679 in 1995. Following the enactment of the Prison Litigation Reform Act, they declined to 41,215 in 1996 and continued down to 26,462 by 1998.

The special report, "Civil Rights Complaints in U.S. District Courts, 1990-98" (NCJ-173427) , was written by BJS statistician Marika F.X. Litras. Single copies may be obtained from the BJS fax-on-demand system by dialing 301/519-5550, listening to the complete menu and selecting document number 185. Or call the BJS clearinghouse number: 1-800-732-3277. Fax orders for mail delivery to 410/792-4358. The BJS Internet site is:

<http://www.ojp.usdoj.gov/bjs/>

Additional criminal justice materials can be obtained from the Office of Justice Programs homepage at:

<http://www.ojp.usdoj.gov>

YEAR	EVENT
1783	Massachusetts outlaws slavery within its borders.
1808	Importation of slaves banned.
1833	Oberlin College refuses to ban black students.
1850	Compromise of 1850-admits California as a non-slave state; ends slavery in Washington, D.C., BUT strengthens the fugitive slave law
1857	Dred Scott decision-court rules slaves do not become free when taken into a free state and blacks can not become citizens.
1861	Civil War begins.
1863	President Lincoln issues Emancipation Proclamation
1865	Civil War ends. 13th Amendment-abolishing slavery is added to the Constitution.
1868	14th Amendment-conferring citizenship is added to the Constitution.
1870	15th Amendment-barring racial discrimination in voting is added to the Constitution.
1875	Civil Rights Act-grants equal rights in public accommodations and jury duty.
1883	Supreme Court invalidates Civil Rights Act
1906	Race riots in Atlanta

1909 National Association for the Advancement of Colored People is formed.

1925	Ku Klux Klan marches on Washington, D.C.
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1948	President Truman issues an executive order outlawing segregation in the military.
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Arkansas Gazette Editorial, September 1, 1957

A time of testing

In his clear and forthright ruling in the Little Rock school case Federal Judge Ronald N. Davies has swept away the legal confusion generated by the apparent conflict between state and federal laws.

The judge ordered the Little Rock School Board to proceed on schedule with its plan for limited, gradual integration at the High School level--and he enjoined "all persons, in any manner, directly or indirectly, from interfering with the plan of integration as approved by the United States District Court."

This means that on Tuesday some 15 Negro children will be enrolled at Little Rock Central High School along with more than 2,000 whites. There are those who have suggested that this cannot be done without inciting the populace of this city to violence. They have, we believe, too little faith in the respect of our people for law and order.

We do not believe any organized group of citizens would under any circumstances undertake to do violence to school children of any race. And if there are any individuals who might embark upon such a reckless and indefensible course we have no doubt that our law enforcement officers can and will preserve order.

This is a time of testing for all of us. Few of us are entirely happy over the necessary developments in the wake of changes in the law. But certainly we must recognize that the School Board is simply carrying out its clear duty--and is doing so in the ultimate best interests of all the school children of Little Rock, white and colored alike. We are confident that the citizens of Little Rock will demonstrate on Tuesday for the world to see that we are a law-abiding people.

Reprinted from the *Arkansas Gazette*, September 1, 1957

Arkansas Democrat Editorial, September 2, 1957

Support your school board

The Little Rock School Board has a right to the community support it asked, Sunday, on the eve of opening the city schools. It has handled the integration question with rare diplomacy and skill.

The board faced a three-way dilemma--the necessity of action, the sensitive nature of the problem and the vital need of maintaining high educational standards. And to those ends it worked out a plan that gives the least possible integration in the longest possible period of time.

So ably was this done, that the plan won the unique triumph of approval by the Federal District Court in Little Rock and the Eighth U.S. Court of Appeals. Only about 15 Negro students are expected to be admitted--to Central High, which has around 2,000 white students.

Superintendent Blossom gave us leadership, calm and wise, which earns the fullest public backing.

There is nothing else we can do.

A Chancery Court injunction against the board's plan was struck down last week by an injunction of the federal District Court. The court was given continuing jurisdiction by the Court of Appeals and it now bans all interference with the plan.

A deplorable note in the situation was Governor Faubus' talk last week of possible disorder, and the inability of the federal government to stop it. Has he so little confidence in the good sense of our people? Who wants federal policing, if that's what the Governor meant?

Such Nervous Nellie forebodings strike a contrast with a statement by Gov. Luther Hodges of North Carolina, which reflects no credit on Mr. Faubus. Governor Hodges said after court decisions against action to prevent Negroes from entering the schools of three North Carolina cities:

"... the state and the people of North Carolina will not tolerate any lawlessness or violence."

Few Little Rockians want integration, but it's the verdict of the courts. And most of us know that all of life is a compromise--in personal and public affairs, in legislation and international dealings.

And the integration compromise in our schools is an exceptionally favorable one, thanks to Superintendent Blossom and the School Board.

Reprinted from the *Arkansas Democrat*, September 2, 1957

Arkansas Gazette Editorial, September 4, 1957

The crisis Mr. Faubus made

Little Rock arose yesterday to gaze upon the incredible spectacle of an empty high school surrounded by National Guard troops called out by Governor Faubus to protect life and property against a mob that never materialized.

Mr. Faubus says he based this extraordinary action on reports of impending violence. Dozens of local reporters and national correspondents worked through the day yesterday without verifying the few facts the governor offered to explain why his appraisal was so different from that of local officials--who have asked for no such action.

Mr. Faubus contends that he has done nothing that can be construed as defiance of the federal government.

Federal Judge Ronald N. Davies last night accepted the governor's statement at its face value, and ordered the School Board to proceed on the assumption that the National Guard would protect the right of the nine enrolled Negro children to enter high school without interference.

Now it remains for Mr. Faubus to decide whether he intends to pose what could be the most serious constitutional question to face the national government since the Civil War. The effect of his action so far is to interpose his state office between the local School District and the United States Court. The government, as Judge Davies implied last night, now has no choice but to proceed against such interference or abandon its right to enforce its rulings and decisions.

Thus the issue is no longer segregation vs. integration. The question has now become the supremacy of the government of the United States in all matters of law. And clearly the federal government cannot let this issue remain unsolved, no matter what the cost to this community.

Until last Thursday the matter of gradual, limited integration in the Little Rock schools was a local problem which had been well and wisely handled by responsible local officials who have had--and we believe still have--the support of a majority of the people of this city. On that day Mr. Faubus appeared in Chancery Court on behalf of a small but militant minority and chose to make it a state problem. On Monday night he called out the National Guard and made it a national problem.

It is one he must now live with, and the rest of us must suffer under. If Mr. Faubus in fact has no intention of defying federal authority now is the time for him to call a halt to the resistance which is preventing the carrying out of a duly entered court order. And certainly he should do so before his own actions become the cause of the violence he professes to fear.

Reprinted from the *Arkansas Gazette*, September 4, 1957

Arkansas Democrat Editorial, September 5, 1957

What now in our school trouble?

What is the situation, and where do we go from here in the integration troubles besetting our city schools?

Up to Monday night, Little Rock seemed to be calm about the two-year-planned admission of a handful of Negro pupils in Central High.

There was a ripple of excitement the previous week when Chancellor Murray Reed issued a temporary injunction against enrolling the Negro students, largely on the testimony of Governor Faubus that violence threatened.

Last week the Chancery injunction was struck down by the Federal District Court, which had been given continuing jurisdiction by the Eighth Circuit Court of Appeals. And it looked like the school plan was accepted as an unpleasant necessity.

But everything changed when Governor Faubus, Monday night, called out the National Guard to stand watch over Central High. He said in a TV and radio talk that he was acting to preserve the peace.

The School Board was on a hot spot, liable to a penalty if it failed to carry out the Federal District Court's order. It went back to the court to find out what it could do in the difficulty it faced.

The court said it took at face value the governor's statement that the Guard wasn't ordered out on the segregation issue, but to avert violence and keep the peace. And the court ordered enrollment of the Negro pupils "forthwith."

Nine appeared at Central High Wednesday morning, and were turned back by the troops. Governor Faubus said he had issued the order.

So what now? The issue has gone beyond segregation to a question of law and order. It is a matter for the courts to decide. Meanwhile, let us bear ourselves quietly.

In our keeping as citizens are the safety of our streets--for there are always hotheads around--the impression on our young people and the good name of Arkansas.

Reprinted from the *Arkansas Democrat*, September 5, 1957

Arkansas Gazette Editorial, September 15, 1957

Governor Faubus got his answer

In an effort to resolve a constitutional crisis which was wholly of his own making, Governor Faubus has now flown to Newport for an emergency conference with the president of the United States.

When it was all over yesterday afternoon it was clear that Mr. Faubus had obtained no concession from Mr. Eisenhower beyond a friendly smile.

And Mr. Faubus himself had to walk before the cameras and end the long train of double-talk with which he has sought to cloak his posture of naked defiance of the federal courts. Stripped of their face-saving phrases, here were his key words:

"I have never expressed any personal opinion regarding the Supreme Court decision of 1954 which ordered integration. That is not relevant. That decision is the law of the land and must be obeyed."

Then, with Mr. Faubus' capitulation safely on the record, Mr. Eisenhower applied the clincher when in his own statement he said:

"The governor stated his intention to respect the decision of the United States District Court and to give his full cooperation in carrying out his responsibilities in respect to these decisions."

"I am sure that it is the desire of the governor, not only to serve the supreme law of the land but to use the influence of his office in orderly progress of the plans which are already the subject of the order of the Court."

The District Court, of course, is the one in which Mr. Faubus has been summoned to appear before Judge Ronald N. Davies to show cause why he should not be enjoined from obstructing the law.

And the plan to which the president referred is the one which the Little Rock School Board worked out and had every reason to believe could peacefully be carried through before Mr. Faubus threw his armed troops around Central High School to forcibly prevent the entry of nine Negro children.

Many important questions remain to be resolved. Mr. Faubus has said nothing at this writing in regard to the possibility of keeping the National Guard on duty--but with new orders to preserve the peace against those who would thwart the law.

But the big question that Mr. Faubus raised has been clearly answered. The federal government will not back down. The law will be enforced. Mr. Faubus can join his efforts to that end, or he can sit it out. But he cannot expect to longer halt the machinery of the courts.

And so the peace that Mr. Faubus shattered can be restored to this town and if he no more than subsides, the responsible, law-abiding citizens of Little Rock can get on with their job of trying to heal the wounds he caused.

Reprinted from the *Arkansas Gazette*, September 15, 1957

Malcolm X, speech (9th November, 1963)

Look at the American Revolution in 1776. That revolution was for what? For land. Why did they want land? Independence. How was it carried out? Bloodshed. Number one, it was based on land, the basis of independence. And the only way they could get it was bloodshed. The French Revolution - what was it based on? The landless against the landlord. What was it for? Land. How did they get it? Bloodshed. Was no love lost, was no compromise, was no negotiation. I'm telling you - you don't know what a revolution is. Because when you find out what it is, you'll get back in the alley, you'll get out of the way.

The Russian Revolution - what was it based on? Land; the landless against the landlord. How did they bring it about? Bloodshed. You haven't got a revolution that doesn't involve bloodshed. And you're afraid to bleed. I said, you're afraid to bleed.

As long as the white man sent you to Korea, you bled. He sent you to Germany, you bled. He sent you to the South Pacific to fight the Japanese, you bled. You bleed for white people, but when it comes to seeing your own churches being bombed and little black girls murdered, you haven't got any blood. You bleed when the white man says bleed; you bite when the white man says bite; and you bark when the white man says bark. I hate to say this about us, but it's true. How are you going to be nonviolent in Mississippi, as violent as you were in Korea? How can you justify being nonviolent in Mississippi and Alabama, when your churches are being bombed, and your little girls are being murdered, and at the same time you are going to get violent with Hitler, and Tojo, and somebody else you don't even know?

If violence is wrong in America, violence is wrong abroad. If it is wrong to be violent defending black 'women and black children and black babies and black men, then it is wrong for America to draft us and make us violent abroad in defense of her. And if it is right for America to draft us, and teach us how to be violent in defense of her, then it is right for you and me to do whatever is necessary to defend our own people right here in this country.

So I cite these various revolutions, brothers and sisters, to show you that you don't have a peaceful revolution. You don't have a turn-the-other-cheek revolution. There's no such thing as a nonviolent revolution. The only kind of revolution that is nonviolent is the Negro revolution. The only revolution in which the goal is loving your enemy is the Negro revolution. It's the only revolution in which the goal is a desegregated lunch counter, a desegregated theater, a desegregated park, and a desegregated public toilet; you can sit down next to white folks - on the toilet. That's no revolution. Revolution is based on land. Land is the basis of all independence. Land is the basis of freedom, justice, and equality.

MARTIN LUTHER KING: "I HAVE A DREAM" AUGUST 28, 1968

I am happy to join with you today in what will go down in history as the greatest demonstration for freedom in the history of our nation.

Five score years ago, a great American, in whose symbolic shadow we stand today, signed the Emancipation Proclamation. This momentous decree came as a great beacon light of hope to millions of Negro slaves who had been seared in the flames of withering injustice. It came as a joyous daybreak to end the long night of their captivity.

But one hundred years later, the Negro still is not free. One hundred years later, the life of the Negro is still sadly crippled by the manacles of segregation and the chains of discrimination. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later, the Negro is still languishing in the corners of American society and finds himself an exile in his own land. So we have come here today to dramatize a shameful condition.

In a sense we have come to our nation's capital to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights of life, liberty, and the pursuit of happiness.

It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked "insufficient funds." But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. So we have come to cash this check -- a check that will give us upon demand the riches of freedom and the security of justice. We have also come to this hallowed spot to remind America of the fierce urgency of now. This is no time to engage in the luxury of cooling off or to take the tranquilizing drug of gradualism. Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quick sands of racial injustice to the solid rock of brotherhood. Now is the time to make justice a reality for all of God's children.

It would be fatal for the nation to overlook the urgency of the moment. This sweltering summer of the Negro's legitimate discontent will not pass until there is an invigorating autumn of freedom and equality. Nineteen sixty-three is not an

end, but a beginning. Those who hope that the Negro needed to blow off steam and will now be content will have a rude awakening if the nation returns to business as usual. There will be neither rest nor tranquility in America until the Negro is granted his citizenship rights. The whirlwinds of revolt will continue to shake the foundations of our nation until the bright day of justice emerges.

But there is something that I must say to my people who stand on the warm threshold which leads into the palace of justice. In the process of gaining our rightful place we must not be guilty of wrongful deeds. Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred.

We must forever conduct our struggle on the high plane of dignity and discipline. We must not allow our creative protest to degenerate into physical violence. Again and again we must rise to the majestic heights of meeting physical force with soul force. The marvelous new militancy which has engulfed the Negro community must not lead us to distrust of all white people, for many of our white brothers, as evidenced by their presence here today, have come to realize that their destiny is tied up with our destiny and their freedom is inextricably bound to our freedom. We cannot walk alone.

As we walk, we must make the pledge that we shall march ahead. We cannot turn back. There are those who are asking the devotees of civil rights, "When will you be satisfied?" We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. We can never be satisfied, as long as our bodies, heavy with the fatigue of travel, cannot gain lodging in the motels of the highways and the hotels of the cities. We can never be satisfied as long as a Negro in Mississippi cannot vote and a Negro in New York believes he has nothing for which to vote. No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.

I am not unmindful that some of you have come here out of great trials and tribulations. Some of you have come fresh from narrow jail cells. Some of you have come from areas where your quest for freedom left you battered by the storms of persecution and staggered by the winds of police brutality. You have been the veterans of creative suffering. Continue to work with the faith that unearned suffering is redemptive.

Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our northern cities, knowing that somehow this situation can and will be changed. Let us not wallow in the valley of despair.

I say to you today, my friends, so even though we face the difficulties of today and tomorrow, I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident: that all men are created equal."

I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

I have a dream today.

I have a dream that one day, down in Alabama, with its vicious racists, with its governor having his lips dripping with the words of interposition and nullification; one day right there in Alabama, little black boys and black girls will be able to join hands with little white boys and white girls as sisters and brothers.

I have a dream today.

I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the rough places will be made plain, and the crooked places will be made straight, and the glory of the Lord shall be revealed, and all flesh shall see it together.

This is our hope. This is the faith that I go back to the South with. With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day.

This will be the day when all of God's children will be able to sing with a new meaning, "My country, 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride, from every mountainside, let freedom ring."

And if America is to be a great nation this must become true. So let freedom ring from the prodigious hilltops of New Hampshire. Let freedom ring from the mighty mountains of New York. Let freedom ring from the heightening Alleghenies of Pennsylvania!

Let freedom ring from the snowcapped Rockies of Colorado!

Let freedom ring from the curvaceous slopes of California!

But not only that; let freedom ring from Stone Mountain of Georgia!

Let freedom ring from Lookout Mountain of Tennessee!

Let freedom ring from every hill and molehill of Mississippi. From every mountainside, let freedom ring.

And when this happens, When we allow freedom to ring, when we let it ring from every village and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, "Free at last! free at last! thank God Almighty, we are free at last!"

President Lyndon B. Johnson's

Special Message to the Congress: The American Promise

March 15, 1965

[As delivered in person before a joint session at 9:02 p.m.]

Mr. Speaker, Mr. President, Members of the Congress:

I speak tonight for the dignity of man and the destiny of democracy.

I urge every member of both parties, Americans of all religions and of all colors, from every section of this country, to join me in that cause.

At times history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma, Alabama.

There, long-suffering men and women peacefully protested the denial of their rights as Americans. Many were brutally assaulted. One good man, a man of God, was killed.

There is no cause for pride in what has happened in Selma. There is no cause for self-satisfaction in the long denial of equal rights of millions of Americans. But there is cause for hope and for faith in our democracy in what is happening here tonight.

For the cries of pain and the hymns and protests of oppressed people have summoned into convocation all the majesty of this great Government--the Government of the greatest Nation on earth.

Our mission is at once the oldest and the most basic of this country: to right wrong, to do justice, to serve man.

In our time we have come to live with moments of great crisis. Our lives have been marked with debate about great issues; issues of war and peace, issues of prosperity and depression. But rarely in any time does an issue lay bare the secret heart of America itself. Rarely are we met with a challenge, not to our growth or abundance, our welfare or our security, but rather to the values and the purposes and the meaning of our beloved Nation.

The issue of equal rights for American Negroes is such an issue. And should we defeat every enemy, should we double our wealth and conquer the stars, and still be unequal to this issue, then we will have failed as a people and as a nation.

For with a country as with a person, "What is a man profited, if he shall gain the whole world, and lose his own soul?"

There is no Negro problem. There is no Southern problem. There is no Northern problem. There is only an American problem. And we are met here tonight as Americans--not as Democrats or Republicans--we are met here as Americans to solve that problem.

This was the first nation in the history of the world to be founded with a purpose. The great phrases of that purpose still sound in every American heart, North and South: "All men are created equal"--"government by consent of the governed"--"give me liberty or give me death." Well, those are not just clever words, or those are not just empty theories. In their name Americans have fought and died for two centuries, and tonight around the world they stand there as guardians of our liberty, risking their lives.

Those words are a promise to every citizen that he shall share in the dignity of man. This dignity cannot be found in a man's possessions; it cannot be found in his power, or in his position. It really rests on his right to be treated as a man equal in opportunity to all others. It says that he shall share in freedom, he shall choose his leaders, educate his children, and provide for his family according to his ability and his merits as a human being.

To apply any other test--to deny a man his hopes because of his color or race, his religion or the place of his birth--is not only to do injustice, it is to deny America and to dishonor the dead who gave their lives for American freedom.

THE RIGHT TO VOTE

Our fathers believed that if this noble view of the rights of man was to flourish, it must be rooted in democracy. The most basic right of all was the right to choose your own leaders. The history of this country, in large measure, is the history of the expansion of that right to all of our people.

Many of the issues of civil rights are very complex and most difficult. But about this there can and should be no argument. Every American citizen must have an equal right to vote. There is no reason which can excuse the denial of that right. There is no duty which weighs more heavily on us than the duty we have to ensure that right.

Yet the harsh fact is that in many places in this country men and women are kept from voting simply because they are Negroes.

Every device of which human ingenuity is capable has been used to deny this right. The Negro citizen may go to register only to be told that the day is wrong,

or the hour is late, or the official in charge is absent. And if he persists, and if he manages to present himself to the registrar, he may be disqualified because he did not spell out his middle name or because he abbreviated a word on the application.

And if he manages to fill out an application he is given a test. The registrar is the sole judge of whether he passes this test. He may be asked to recite the entire Constitution, or explain the most complex provisions of State law. And even a college degree cannot be used to prove that he can read and write.

For the fact is that the only way to pass these barriers is to show a white skin.

Experience has clearly shown that the existing process of law cannot overcome systematic and ingenious discrimination. No law that we now have on the books--and I have helped to put three of them there--can ensure the right to vote when local officials are determined to deny it.

In such a case our duty must be clear to all of us. The Constitution says that no person shall be kept from voting because of his race or his color. We have all sworn an oath before God to support and to defend that Constitution. We must now act in obedience to that oath.

GUARANTEEING THE RIGHT TO VOTE

Wednesday I will send to Congress a law designed to eliminate illegal barriers to the right to vote.

The broad principles of that bill will be in the hands of the Democratic and Republican leaders tomorrow. After they have reviewed it, it will come here formally as a bill. I am grateful for this opportunity to come here tonight at the invitation of the leadership to reason with my friends, to give them my views, and to visit with my former colleagues.

I have had prepared a more comprehensive analysis of the legislation which I had intended to transmit to the clerk tomorrow but which I will submit to the clerks tonight. But I want to really discuss with you now briefly the main proposals of this legislation,

This bill will strike down restrictions to voting in all elections--Federal, State, and local--which have been used to deny Negroes the right to vote.

This bill will establish a simple, uniform standard which cannot be used, however ingenious the effort, to flout our Constitution.

It will provide for citizens to be registered by officials of the United States Government if the State officials refuse to register them.

It will eliminate tedious, unnecessary lawsuits which delay the right to vote.

Finally, this legislation will ensure that properly registered individuals are not prohibited from voting.

I will welcome the suggestions from all of the Members of Congress--I have no doubt that I will get some--on ways and means to strengthen this law and to make it effective. But experience has plainly shown that this is the only path to carry out the command of the Constitution.

To those who seek to avoid action by their National Government in their own communities; who want to and who seek to maintain purely local control over elections, the answer is simple:

Open your polling places to all your people.

Allow men and women to register and vote whatever the color of their skin.

Extend the rights of citizenship to every citizen of this land.

THE NEED FOR ACTION

There is no constitutional issue here. The command of the Constitution is plain.

There is no moral issue. It is wrong--deadly wrong--to deny any of your fellow Americans the right to vote in this country.

There is no issue of States rights or national rights. There is only the struggle for human rights.

I have not the slightest doubt what will be your answer.

The last time a President sent a civil rights bill to the Congress it contained a provision to protect voting rights in Federal elections. That civil rights bill was passed after 8 long months of debate. And when that bill came to my desk from the Congress for my signature, the heart of the voting provision had been eliminated.

This time, on this issue, there must be no delay, no hesitation and no compromise with our purpose.

We cannot, we must not, refuse to protect the right of every American to vote in every election that he may desire to participate in. And we ought not and we cannot and we must not wait another 8 months before we get a bill. We have already waited a hundred years and more, and the time for waiting is gone.

So I ask you to join me in working long hours--nights and weekends, if necessary--to pass this bill. And I don't make that request lightly. For from the window where I sit with the problems of our country I recognize that outside this chamber is the outraged conscience of a nation, the grave concern of many nations, and the harsh judgment of history on our acts.

WE SHALL OVERCOME

But even if we pass this bill, the battle will not be over. What happened in Selma is part of a far larger movement which reaches into every section and State of America. It is the effort of American Negroes to secure for themselves the full blessings of American life.

Their cause must be our cause too. Because it is not just Negroes, but really it is all of us, who must overcome the crippling legacy of bigotry and injustice.

And we shall overcome.

As a man whose roots go deeply into Southern soil I know how agonizing racial feelings are. I know how difficult it is to reshape the attitudes and the structure of our society.

But a century has passed, more than a hundred years, since the Negro was freed. And he is not fully free tonight.

It was more than a hundred years ago that Abraham Lincoln, a great President of another party, signed the Emancipation Proclamation, but emancipation is a proclamation and not a fact.

A century has passed, more than a hundred years, since equality was promised. And yet the Negro is not equal.

A century has passed since the day of promise. And the promise is unkept.

The time of justice has now come. I tell you that I believe sincerely that no force can hold it back. It is right in the eyes of man and God that it should come. And when it does, I think that day will brighten the lives of every American.

For Negroes are not the only victims. How many white children have gone uneducated, how many white families have lived in stark poverty, how many

white lives have been scarred by fear, because we have wasted our energy and our substance to maintain the barriers of hatred and terror?

So I say to all of you here, and to all in the Nation tonight, that those who appeal to you to hold on to the past do so at the cost of denying you your future.

This great, rich, restless country can offer opportunity and education and hope to all: black and white, North and South, sharecropper and city dweller. These are the enemies: poverty, ignorance, disease. They are the enemies and not our fellow man, not our neighbor. And these enemies too, poverty, disease and ignorance, we shall overcome.

AN AMERICAN PROBLEM

Now let none of us in any sections look with prideful righteousness on the troubles in another section, or on the problems of our neighbors. There is really no part of America where the promise of equality has been fully kept. In Buffalo as well as in Birmingham, in Philadelphia as well as in Selma, Americans are struggling for the fruits of freedom.

This is one Nation. What happens in Selma or in Cincinnati is a matter of legitimate concern to every American. But let each of us look within our own hearts and our own communities, and let each of us put our shoulder to the wheel to root out injustice wherever it exists.

As we meet here in this peaceful, historic chamber tonight, men from the South, some of whom were at Iwo Jima, men from the North who have carried Old Glory to far corners of the world and brought it back without a stain on it, men from the East and from the West, are all fighting together without regard to religion, or color, or region, in Viet-Nam. Men from every region fought for us across the world 20 years ago.

And in these common dangers and these common sacrifices the South made its contribution of honor and gallantry no less than any other region of the great Republic--and in some instances, a great many of them, more.

And I have not the slightest doubt that good men from everywhere in this country, from the Great Lakes to the Gulf of Mexico, from the Golden Gate to the harbors along the Atlantic, will rally together now in this cause to vindicate the freedom of all Americans. For all of us owe this duty; and I believe that all of us will respond to it.

Your President makes that request of every American.

PROGRESS THROUGH THE DEMOCRATIC PROCESS

The real hero of this struggle is the American Negro. His actions and protests, his courage to risk safety and even to risk his life, have awakened the conscience of this Nation. His demonstrations have been designed to call attention to injustice, designed to provoke change, designed to stir reform.

He has called upon us to make good the promise of America. And who among us can say that we would have made the same progress were it not for his persistent bravery, and his faith in American democracy.

For at the real heart of battle for equality is a deep-seated belief in the democratic process. Equality depends not on the force of arms or tear gas but upon the force of moral right; not on recourse to violence but on respect for law and order.

There have been many pressures upon your President and there will be others as the days come and go. But I pledge you tonight that we intend to fight this battle where it should be fought: in the courts, and in the Congress, and in the hearts of men.

We must preserve the right of free speech and the right of free assembly. But the right of free speech does not carry with it, as has been said, the right to holler fire in a crowded theater. We must preserve the right to free assembly, but free assembly does not carry with it the right to block public thoroughfares to traffic.

We do have a right to protest, and a right to march under conditions that do not infringe the constitutional rights of our neighbors. And I intend to protect all those rights as long as I am permitted to serve in this office.

We will guard against violence, knowing it strikes from our hands the very weapons which we seek--progress, obedience to law, and belief in American values.

In Selma as elsewhere we seek and pray for peace. We seek order. We seek unity. But we will not accept the peace of stifled rights, or the order imposed by fear, or the unity that stifles protest. For peace cannot be purchased at the cost of liberty.

In Selma tonight, as in every--and we had a good day there--as in every city, we are working for just and peaceful settlement. We must all remember that after this speech I am making tonight, after the police and the FBI and the Marshals have all gone, and after you have promptly passed this bill, the people of Selma and the other cities of the Nation must still live and work together. And when the

attention of the Nation has gone elsewhere they must try to heal the wounds and to build a new community.

This cannot be easily done on a battleground of violence, as the history of the South itself shows. It is in recognition of this that men of both races have shown such an outstandingly impressive responsibility in recent days--last Tuesday, again today,

RIGHTS MUST BE OPPORTUNITIES

The bill that I am presenting to you will be known as a civil rights bill. But, in a larger sense, most of the program I am recommending is a civil rights program. Its object is to open the city of hope to all people of all races.

Because all Americans just must have the right to vote. And we are going to give them that right.

All Americans must have the privileges of citizenship regardless of race. And they are going to have those privileges of citizenship regardless of race.

But I would like to caution you and remind you that to exercise these privileges takes much more than just legal right. It requires a trained mind and a healthy body. It requires a decent home, and the chance to find a job, and the opportunity to escape from the clutches of poverty.

Of course, people cannot contribute to the Nation if they are never taught to read or write, if their bodies are stunted from hunger, if their sickness goes untended, if their life is spent in hopeless poverty just drawing a welfare check.

So we want to open the gates to opportunity. But we are also going to give all our people, black and white, the help that they need to walk through those gates.

THE PURPOSE OF THIS GOVERNMENT

My first job after college was as a teacher in Cotulla, Tex., in a small Mexican-American school. Few of them could speak English, and I couldn't speak much Spanish. My students were poor and they often came to class without breakfast, hungry. They knew even in their youth the pain of prejudice. They never seemed to know why people disliked them. But they knew it was so, because I saw it in their eyes. I often walked home late in the afternoon, after the classes were finished, wishing there was more that I could do. But all I knew was to teach them the little that I knew, hoping that it might help them against the hardships that lay ahead.

Somehow you never forget what poverty and hatred can do when you see its scars on the hopeful face of a young child.

I never thought then, in 1928, that I would be standing here in 1965. It never even occurred to me in my fondest dreams that I might have the chance to help the sons and daughters of those students and to help people like them all over this country.

But now I do have that chance--and I'll let you in on a secret--I mean to use it. And I hope that you will use it with me.

This is the richest and most powerful country which ever occupied the globe. The might of past empires is little compared to ours. But I do not want to be the President who built empires, or sought grandeur, or extended dominion.

I want to be the President who educated young children to the wonders of their world. I want to be the President who helped to feed the hungry and to prepare them to be taxpayers instead of taxeaters.

I want to be the President who helped the poor to find their own way and who protected the right of every citizen to vote in every election.

I want to be the President who helped to end hatred among his fellow men and who promoted love among the people of all races and all regions and all parties.

I want to be the President who helped to end war among the brothers of this earth.

And so at the request of your beloved Speaker and the Senator from Montana; the majority leader, the Senator from Illinois; the minority leader, Mr. McCulloch, and other Members of both parties, I came here tonight--not as President Roosevelt came down one time in person to veto a bonus bill, not as President Truman came down one time to urge the passage of a railroad bill--but I came down here to ask you to share this task with me and to share it with the people that we both work for. I want this to be the Congress, Republicans and Democrats alike, which did all these things for all these people.

Beyond this great chamber, out yonder in 50 States, are the people that we serve. Who can tell what deep and unspoken hopes are in their hearts tonight as they sit there and listen. We all can guess, from our own lives, how difficult they often find their own pursuit of happiness, how many problems each little family has. They look most of all to themselves for their futures. But I think that they also look to each of us.

Above the pyramid on the great seal of the United States it says--in Latin--"God has favored our undertaking."

God will not favor everything that we do. It is rather our duty to divine His will. But I cannot help believing that He truly understands and that He really favors the undertaking that we begin here tonight.

NOTE: The address was broadcast nationally.

Source: *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965*. Volume I, entry 107, pp. 281-287. Washington, D. C.: Government Printing Office, 1966.

John F. Kennedy's Speech on Civil Rights-June 11, 1963

Good evening my fellow citizens:

This afternoon, following a series of threats and defiant statements, the presence of Alabama National Guardsmen was required on the University of Alabama to carry out the final and unequivocal order of the United States District Court of the Northern District of Alabama. That order called for the admission of two clearly qualified young Alabama residents who happened to have been born Negro.

That they were admitted peacefully on the campus is due in good measure to the conduct of the students of the University of Alabama, who met their responsibilities in a constructive way.

I hope that every American, regardless of where he lives, will stop and examine his conscience about this and other related incidents. This Nation was founded by men of many nations and backgrounds. It was founded on the principle that all men are created equal, and that the rights of every man are diminished when the rights of one man are threatened.

Today we are committed to a worldwide struggle to promote and protect the rights of all who wish to be free. And when Americans are sent to Viet-Nam or West Berlin, we do not ask for whites only. It ought to be possible, therefore, for American students of any color to attend any public institution they select without having to be backed up by troops.

It ought to be possible for American consumers of any color to receive equal service in places of public accommodation, such as hotels and restaurants and theaters and retail stores, without being forced to resort to demonstrations in the street, and it ought to be possible for American citizens of any color to register to vote in a free election without interference or fear of reprisal.

It ought to be possible, in short, for every American to enjoy the privileges of being American without regard to his race or his color. In short, every American ought to have the right to be treated as he would wish to be treated, as one would wish his children to be treated. But this is not the case.

The Negro baby born in America today, regardless of the section of the Nation in which he is born, has about one-half as much chance of completing a high school as a white baby born in the same place on the same day, one-third as much chance of completing college, one-third as much chance of becoming a professional man, twice as much chance of becoming unemployed, about one-seventh as much chance of earning \$10,000 a year, a life expectancy which is 7 years shorter, and the prospects of earning only half as much.

This is not a sectional issue. Difficulties over segregation and discrimination exist in every city, in every State of the Union, producing in many cities a rising tide of discontent that threatens the public safety. Nor is this a partisan issue. In a time of domestic crisis men of good will and generosity should be able to unite regardless of party or politics. This is not even a legal or legislative issue alone. It is better to settle these matters in the courts than on the streets, and new laws are needed at every level, but law alone cannot make men see right.

We are confronted primarily with a moral issue. It is as old as the scriptures and is as clear as the American Constitution.

The heart of the question is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark, cannot eat lunch in a restaurant open to the public, if he cannot send his children to the best public school available, if he cannot vote for the public officials who will represent him, if, in short, he cannot enjoy the full and free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place? Who among us would then be content with the counsels of patience and delay?

One hundred years of delay have passed since President Lincoln freed the slaves, yet their heirs, their grandsons, are not fully free. They are not yet freed from the bonds of injustice. They are not yet freed from social and economic oppression. And this Nation, for all its hopes and all its boasts, will not be fully free until all its citizens are free.

We preach freedom around the world, and we mean it, and we cherish our freedom here at home, but are we to say to the world, and much more importantly, to each other that this is the land of the free except for the Negroes; that we have no second-class citizens except Negroes; that we have no class or caste system, no ghettos, no master race except with respect to Negroes?

Now the time has come for this Nation to fulfill its promise. The events in Birmingham and elsewhere have so increased the cries for equality that no city or State or legislative body can prudently choose to ignore them.

The fires of frustration and discord are burning in every city, North and South, where legal remedies are not at hand. Redress is sought in the streets, in demonstrations, parades, and protests which create tensions and threaten violence and threaten lives.

We face, therefore, a moral crisis as a country and as a people. It cannot be met by repressive police action. It cannot be left to increased demonstrations in the streets. It cannot be quieted by token moves or talk. It is time to act in the Congress, in your State and local legislative body and, above all, in all of our daily lives.

It is not enough to pin the blame of others, to say this a problem of one section of the country or another, or deplore the fact that we face. A great change is at hand, and our task, our obligation, is to make that revolution, that change, peaceful and constructive for all.

Those who do nothing are inviting shame as well as violence. Those who act boldly are recognizing right as well as reality.

Next week I shall ask the Congress of the United States to act, to make a commitment it has not fully made in this century to the proposition that race has no place in American life or law. The Federal judiciary has upheld that proposition in the conduct of its affairs, including the employment of Federal personnel, the use of Federal facilities, and the sale of federally financed housing.

But there are other necessary measures which only the Congress can provide, and they must be provided at this session. The old code of equity law under which we live commands for every wrong a remedy, but in too many communities, in too many parts of the country, wrongs are inflicted on Negro citizens and there are no remedies at law. Unless the Congress acts, their only remedy is in the street.

I am, therefore, asking the Congress to enact legislation giving all Americans the right to be served in facilities which are open to the public--hotels, restaurants, theaters, retail stores, and similar establishments.

This seems to me to be an elementary right. Its denial is an arbitrary indignity that no American in 1963 should have to endure, but many do.

I have recently met with scores of business leaders urging them to take voluntary action to end this discrimination and I have been encouraged by their response, and in the last 2 weeks over 75 cities have seen progress made in desegregating these kinds of facilities. But many are unwilling to act alone, and for this reason, nationwide legislation is needed if we are to move this problem from the streets to the courts.

I am also asking the Congress to authorize the Federal Government to participate more fully in lawsuits designed to end segregation in public education. We have succeeded in persuading many districts to desegregate voluntarily. Dozens have admitted Negroes without violence. Today a Negro is attending a State-supported institution in every one of our 50 States, but the pace is very slow.

Too many Negro children entering segregated grade schools at the time of the Supreme Court's decision 9 years ago will enter segregated high schools this fall, having suffered a loss which can never be restored. The lack of an adequate education denies the Negro a chance to get a decent job.

The orderly implementation of the Supreme Court decision, therefore, cannot be left solely to those who may not have the economic resources to carry the legal action or who may be subject to harassment.

Other features will also be requested, including greater protection for the right to vote. But legislation, I repeat, cannot solve this problem alone. It must be solved in the homes of every American in every community across our country.

In this respect I want to pay tribute to those citizens North and South who have been working in their communities to make life better for all. They are acting not out of a sense of legal duty but out of a sense of human decency.

Like our soldiers and sailors in all parts of the world they are meeting freedom's challenge on the firing line, and I salute them for their honor and their courage.

My fellow Americans, this is a problem which faces us all--in every city of the North as well as the South. Today there are Negroes unemployed, two or three times as many compared to whites, inadequate in education, moving into the large cities, unable to find work, young people particularly out of work without hope, denied equal rights, denied the opportunity to eat at a restaurant or lunch counter or go to a movie theater, denied the right to a decent education, denied almost today the right to attend a State university even though qualified. It seems to me that these are matters which concern us all, not merely Presidents or Congressmen or Governors, but every citizen of the United States.

This is one country. It has become one country because all of us and all the people who came here had an equal chance to develop their talents.

We cannot say to 10 percent of the population that you can't have that right; that your children cannot have the chance to develop whatever talents they have; that the only way that they are going to get their rights is to go into the streets and demonstrate. I think we owe them and we owe ourselves a better country than that.

Therefore, I am asking for your help in making it easier for us to move ahead and to provide the kind of equality of treatment which we would want ourselves; to give a chance for every child to be educated to the limit of his talents.

As I have said before, not every child has an equal talent or an equal ability or an equal motivation, but they should have an equal right to develop their talent and their ability and their motivation, to make something of themselves.

We have a right to expect that the Negro community will be responsible, will uphold the law, but they have a right to expect that the law will be fair, that the Constitution will be color blind, as Justice Harlan said at the turn of the century.

This is what we are talking about and this is a matter which concerns this country and what it stands for, and in meeting it I ask the support of all our citizens.

Thank you very much.

The Constitution Explained-Student Level

The [Preamble](#) to the Constitution has no force in law; instead, it establishes the "Why" of the Constitution. Why is this document in existence? It reflects the desires of [the Framers](#) to improve on the government they currently had (to be "more perfect" than the [Articles of Confederation](#)), to ensure that that government would be just, and would protect its citizens from internal strife and from attack from the outside. It would be of benefit to the people, rather than to its detriment. And, perhaps as importantly, it intended to do the same for the future generations of Americans.

[Article 1](#) establishes the first of the three branches of the government, the Legislature. [Section 1](#) establishes the name of the Legislature to be The Congress, a bicameral, or two-part, body.

[Section 2](#) defines the House of Representatives, known as the lower house of Congress. It establishes a few minimum requirements, like a 25-year-old age limit, and establishes that the people themselves will elect the members for two years each. The members of the House are divided among the states proportionally, or according to size, giving more populous states more representatives in the House. The leader of the House is the Speaker of the House, chosen by the members.

[Section 3](#) defines the upper house of Congress, the Senate. Again, it establishes some minimum requirements, such as a 30-year-old age limit. Senators were originally appointed by the legislatures of the individual states, though this later changed. They serve for six years each. Each state has equal suffrage in the Senate, meaning that each state has the exact same number of Senators, two each, regardless of the population. This Section introduces the Vice-President, who is the leader of the Senate (called the President of the Senate); the Vice-President does not vote unless there is a tie.

[Section 4](#) says that each state may establish its own methods for electing members of the Congress, and mandates, or requires, that Congress must meet at least once per year.

[Section 5](#) says that Congress must have a minimum number of members present in order to meet, and that it may set fines for members who do not show up. It says that members may be expelled, that each house must keep a journal to record proceedings and votes, and that neither house can adjourn without the permission of the other.

[Section 6](#) establishes that members of Congress will be paid, that they cannot be detained while traveling to and from Congress, that they cannot hold any other office in the government while in the Congress.

[Section 7](#) details how bills become law. First, any bill for raising money (such as by taxes or fees) must start out in the House. All bills must pass both houses of Congress in the exact same form. Bills that pass both houses are sent to the President. He can either sign the bill, in which case it becomes law, or he can veto it. In the case of a veto, the bill is sent back to Congress, and if both houses pass it by a two-thirds majority, the bill becomes law over the President's veto. This is known as overriding a veto.

There are a couple more options for the President. First, if he neither vetoes a bill nor signs it, it becomes a law without his signature after 10 days. The second option is called a pocket veto. It occurs if Congress sends the bill to the President and they then adjourn. If the President does not sign the bill within 10 days, it does not become law.

[Section 8](#) lists specific powers of Congress, including the power to establish and maintain an army and navy, to establish post offices, to create courts, to regulate commerce between the states, to declare war, and to raise money. It also includes a clause known as the Elastic Clause which allows it to pass any law necessary for the carrying out of the previously listed powers.

[Section 9](#) places certain limits on Congress. Certain legal items, such as suspension of habeas corpus, bills of attainder, and ex post facto laws are prohibited. No law can give preference to one state over another; no money can be taken from the treasury except by duly passed law, and no title of nobility, such as Prince or Marquis, will ever be established by the government.

[Section 10](#), finally, prohibits the states from several things. They cannot make their own money, or declare war, or do most of the other things prohibited Congress in Section 9. They cannot tax goods from other states, nor can they have navies.

[Article 2](#) establishes the second of the three branches of government, the Executive. [Section 1](#) establishes the office of the President and the Vice-President, and sets their terms to be four years. Presidents are elected by the [Electoral College](#), whereby each state has one vote for each member of Congress. Originally, the President was the person with the most votes and the Vice-President was the person with the second most, though this is later changed. Certain minimum requirements are established again, such as a 35-year minimum age. Presidents must also be a natural-born citizen of the United

States. The President is to be paid a salary, which cannot change, up or down, as long as he is in office.

[Section 2](#) gives the President some important powers. He is commander-in-chief of the armed forces and of the militia (National Guard) of all the states; he has a [Cabinet](#) to aid him, and can pardon criminals. He makes treaties with other nations, and picks many of the judges and other members of the government (all with the approval of the Senate).

[Section 3](#) establishes the duties of the President: to give a state of the union address, to make suggestions to Congress, to act as head of state by receiving ambassadors and other heads of state, and to be sure the laws of the United States are carried out.

[Section 4](#) briefly discusses the removal of the President, called impeachment.

[Article 3](#) establishes the last of the three branches of government, the Judiciary. [Section 1](#) establishes the Supreme Court, the highest court in the United States. It also sets the terms of judges, of both the Supreme Court and lower courts: that they serve as long as they are on "good behavior," which usually means for life (no Justice and only a few judges have ever been impeached). It also requires that judges shall be paid.

[Section 2](#) sets the kinds of cases that may be heard by the federal judiciary, which cases the Supreme Court may hear first (called original jurisdiction), and that all other cases heard by the Supreme Court are by appeal. It also guarantees trial by jury in criminal court.

[Section 3](#) defines, without any question, what the crime of treason is.

[Article 4](#) concerns the states. [Section 1](#) mandates that all states will honor the laws of all other states; this ensures, for example, that a couple married in Florida is also considered married by Arizona, or that someone convicted of a crime in Virginia is considered guilty by Wyoming.

[Section 2](#) guarantees that citizens of one state be treated equally and fairly like all citizens of another. It also says that if a person accused of a crime in one state flees to another, they will be returned to the state they fled from. This section also has a clause dealing with fugitive slaves that no longer applies.

[Section 3](#) concerns the admittance of new states and the control of federal lands.

[Section 4](#) ensures a republican form of government (one where the state derives its power from the people) and guarantees that the federal government will protect the states against invasion and insurrection.

[Article 5](#) details the method of amending, or changing, the Constitution. Please see [The Amendments Page](#) for more information.

[Article 6](#) concerns the United States itself. First, it guarantees that the United States under the Constitution would assume all debts and contracts entered into by the United States under the [Articles of Confederation](#). It sets the Constitution and all laws and treaties of the United States to be the supreme law of the country. Finally, it requires all officers of the United States and of the states to swear an oath of allegiance to the United States and the Constitution when taking office.

[Article 7](#) detailed the method for ratification, or acceptance, of the Constitution: of the original 13 states in the United States, nine had to accept the Constitution before it would officially go into effect.

The Amendments

The [1st Amendment](#) protects the people's right to practice religion, to speak freely, to assemble (meet), to address the government and of the press to publish.

The [2nd Amendment](#) protects the right to own guns. There is debate whether this is a right that protects the state, or a right that protects individuals.

The [3rd Amendment](#) guarantees that the army cannot force homeowners to give them room and board.

The [4th Amendment](#) protects the people from the government improperly taking property, papers, or people, without a valid warrant based on probable cause (good reason).

The [5th Amendment](#) protects people from being held for committing a crime unless they are properly indicted, that they may not be tried twice for the same

crime, that you need not be forced to testify against yourself, and from property being taken without just compensation. It also contains [due process](#) guarantees.

The [6th Amendment](#) guarantees a speedy trial, an impartial jury, that the accused can confront witnesses against them, and that the accused must be allowed to have a lawyer.

The [7th Amendment](#) guarantees a jury trial in federal civil court cases. This type of case is normally no longer heard in federal court.

The [8th Amendment](#) guarantees that punishments will be fair, and not cruel, and that extraordinarily large fines will not be set.

The [9th Amendment](#) is simply a statement that other rights aside from those listed may exist, and just because they are not listed doesn't mean they can be violated.

The [10th Amendment](#) is the subject of some debate, but essentially it states that any power not granted to the federal government belongs to the states or to the people. See the [Federalism Topic Page](#) for more information.

The [11th Amendment](#) more clearly defines the original jurisdiction of the Supreme Court concerning a suit brought against a state by a citizen of another state.

The [12th Amendment](#) redefines how the President and Vice-President are chosen by the Electoral College, making the two positions cooperative, rather than first and second highest vote-getters. It also ensures that anyone who becomes Vice-President must be eligible to become President.

The [13th Amendment](#) abolished slavery in the entire United States.

The [14th Amendment](#) ensured that all citizens of all states enjoyed not only rights on the federal level, but on the state level, too. It removed the three-fifths counting of slaves in the census. It ensured that the United States would not pay the debts of rebellious states. It also had several measures designed to ensure the loyalty of legislators who participated on the Confederate side of the Civil War.

The [15th Amendment](#) ensured that race could not be used as a criteria for voting.

The [16th Amendment](#) authorizes the United States to collect income tax without regard to the population of the states.

The [17th Amendment](#) shifted the choosing of Senators from the state legislatures to the people of the states.

The [18th Amendment](#) abolished the sale or manufacture of alcohol in the United States. This amendment was later repealed (erased).

The [19th Amendment](#) ensures that sex could not be used as a criteria for voting.

The [20th Amendment](#) set new start dates for the terms of the Congress and the President, and clarifies how the deaths of Presidents before swearing-in would be handled.

The [21st Amendment](#) repealed the 18th Amendment.

The [22nd Amendment](#) set a limit on the number of times a President could be elected - two four-year terms. It has one exception for a Vice-President who assumes the Presidency after the death or removal of the President, establishing the maximum term of any President to 10 years.

The [23rd Amendment](#) grants the District of Columbia (Washington D.C.) the right to three electors in Presidential elections.

The [24th Amendment](#) ensured that no tax could be charged to vote for any federal office.

The [25th Amendment](#) clarifies even further the line of succession to the Presidency, and establishes rules for a President who becomes unable to perform his duties while in office.

The [26th Amendment](#) ensures that any person 18 or over may vote.

The [27th Amendment](#) requires that any law that increased the pay of legislators may not take effect until after an election.

FORMAL CONSTITUTION THE CONSTITUTION OF THE UNITED STATES

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a Representative who shall not have attained to the age of twenty five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time: and no person holding any office under the United States, shall be a member of either House during his continuance in office.

Section 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law.

But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;--And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Section 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto Law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Section 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Article II

Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with

themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4. The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article III

Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts,

shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;-- between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall

be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

Article IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 3. New states may be admitted by the Congress into this union; but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Article V

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII

The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty seven and of the independence of the United States of America the twelfth. In witness whereof We have hereunto subscribed our Names,

G. Washington-Presidt. and deputy from Virginia

New Hampshire: John Langdon, Nicholas Gilman

Massachusetts: Nathaniel Gorham, Rufus King

Connecticut: Wm: Saml. Johnson, Roger Sherman

New York: Alexander Hamilton

New Jersey: Wil: Livingston, David Brearly, Wm. Paterson, Jona: Dayton

Pennsylvania: B. Franklin, Thomas Mifflin, Robt. Morris, Geo. Clymer, Thos. FitzSimons, Jared Ingersoll, James Wilson, Gouv Morris

Delaware: Geo: Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco: Broom

Maryland: James McHenry, Dan of St Thos. Jenifer, Danl Carroll

Virginia: John Blair--, James Madison Jr.

North Carolina: Wm. Blount, Richd. Dobbs Spaight, Hu Williamson

South Carolina: J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler

Georgia: William Few, Abr Baldwin

THE BILL OF RIGHTS

Amendments 1-10 of the Constitution

The Conventions of a number of the States having, at the time of adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, and as extending the ground of public confidence in the Government will best insure the beneficent ends of its institution;

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States; all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, namely:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Amendment III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and

no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

AMENDMENTS TO THE CONSTITUTION

Amendment XI

(1798)

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Amendment XII

(1804)

The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;--The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;--the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose

shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment XIII

(1865)

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV

(1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or

rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV

(1870)

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XVI

(1913)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census of enumeration.

Amendment XVII

(1913)

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive

thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment XVIII

(1919)

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

Amendment XIX

(1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Amendment XX

(1933)

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission.

Amendment XXI

(1933)

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

Amendment XXII

(1951)

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress.

Amendment XXIII

(1961)

Section 1. The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXIV

(1964)

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXV

(1967)

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment XXVI

(1971)

Section 1. The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Amendment XXVII

(1992)

No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

HR 3162 RDS

107th CONGRESS

1st Session

H. R. 3162

IN THE SENATE OF THE UNITED STATES

October 24, 2001

Received

AN ACT

To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001'. (b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Construction; severability.

TITLE I--ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund.

Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.

Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.

Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.

Sec. 105. Expansion of National Electronic Crime Task Force Initiative.

Sec. 106. Presidential authority.

TITLE II--ENHANCED SURVEILLANCE PROCEDURES

Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism.

Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses.

Sec. 203. Authority to share criminal investigative information.

Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.

Sec. 205. Employment of translators by the Federal Bureau of Investigation.

Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.

Sec. 207. Duration of FISA surveillance of non-United States persons who are agents of a foreign power.

Sec. 208. Designation of judges.

Sec. 209. Seizure of voice-mail messages pursuant to warrants.

Sec. 210. Scope of subpoenas for records of electronic communications.

Sec. 211. Clarification of scope.

Sec. 212. Emergency disclosure of electronic communications to protect life and limb.

Sec. 213. Authority for delaying notice of the execution of a warrant.

Sec. 214. Pen register and trap and trace authority under FISA.

Sec. 215. Access to records and other items under the Foreign Intelligence Surveillance Act.

Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.

Sec. 217. Interception of computer trespasser communications.

Sec. 218. Foreign intelligence information.

Sec. 219. Single-jurisdiction search warrants for terrorism.

Sec. 220. Nationwide service of search warrants for electronic evidence.

Sec. 221. Trade sanctions.

Sec. 222. Assistance to law enforcement agencies.

Sec. 223. Civil liability for certain unauthorized disclosures.

Sec. 224. Sunset.

Sec. 225. Immunity for compliance with FISA wiretap.

TITLE III--INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001

Sec. 301. Short title.

Sec. 302. Findings and purposes.

Sec. 303. 4-year congressional review; expedited consideration.

Subtitle A--International Counter Money Laundering and Related Measures

Sec. 311. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.

Sec. 312. Special due diligence for correspondent accounts and private banking accounts.

Sec. 313. Prohibition on United States correspondent accounts with foreign shell banks.

Sec. 314. Cooperative efforts to deter money laundering.

Sec. 315. Inclusion of foreign corruption offenses as money laundering crimes.

Sec. 316. Anti-terrorist forfeiture protection.

Sec. 317. Long-arm jurisdiction over foreign money launderers.

Sec. 318. Laundering money through a foreign bank.

Sec. 319. Forfeiture of funds in United States interbank accounts.

Sec. 320. Proceeds of foreign crimes.

Sec. 321. Financial institutions specified in subchapter II of chapter 53 of title 31, United States code.

Sec. 322. Corporation represented by a fugitive.

Sec. 323. Enforcement of foreign judgments.

Sec. 324. Report and recommendation.

Sec. 325. Concentration accounts at financial institutions.

Sec. 326. Verification of identification.

Sec. 327. Consideration of anti-money laundering record.

Sec. 328. International cooperation on identification of originators of wire transfers.

Sec. 329. Criminal penalties.

Sec. 330. International cooperation in investigations of money laundering, financial crimes, and the finances of terrorist groups.

Subtitle B--Bank Secrecy Act Amendments and Related Improvements

Sec. 351. Amendments relating to reporting of suspicious activities.

Sec. 352. Anti-money laundering programs.

Sec. 353. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.

Sec. 354. Anti-money laundering strategy.

Sec. 355. Authorization to include suspicions of illegal activity in written employment references.

Sec. 356. Reporting of suspicious activities by securities brokers and dealers; investment company study.

Sec. 357. Special report on administration of bank secrecy provisions.

Sec. 358. Bank secrecy provisions and activities of United States intelligence agencies to fight international terrorism.

Sec. 359. Reporting of suspicious activities by underground banking systems.

Sec. 360. Use of authority of United States Executive Directors.

Sec. 361. Financial crimes enforcement network.

Sec. 362. Establishment of highly secure network.

Sec. 363. Increase in civil and criminal penalties for money laundering.

Sec. 364. Uniform protection authority for Federal Reserve facilities.

Sec. 365. Reports relating to coins and currency received in nonfinancial trade or business.

Sec. 366. Efficient use of currency transaction report system.

Subtitle C--Currency Crimes and Protection

Sec. 371. Bulk cash smuggling into or out of the United States.

Sec. 372. Forfeiture in currency reporting cases.

Sec. 373. Illegal money transmitting businesses.

Sec. 374. Counterfeiting domestic currency and obligations.

Sec. 375. Counterfeiting foreign currency and obligations.

Sec. 376. Laundering the proceeds of terrorism.

Sec. 377. Extraterritorial jurisdiction.

TITLE IV--PROTECTING THE BORDER

Subtitle A--Protecting the Northern Border

Sec. 401. Ensuring adequate personnel on the northern border.

Sec. 402. Northern border personnel.

Sec. 403. Access by the Department of State and the INS to certain identifying information in the criminal history records of visa applicants and applicants for admission to the United States.

Sec. 404. Limited authority to pay overtime.

Sec. 405. Report on the integrated automated fingerprint identification system for ports of entry and overseas consular posts.

Subtitle B--Enhanced Immigration Provisions

Sec. 411. Definitions relating to terrorism.

Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review.

Sec. 413. Multilateral cooperation against terrorists.

Sec. 414. Visa integrity and security.

Sec. 415. Participation of Office of Homeland Security on Entry-Exit Task Force.

Sec. 416. Foreign student monitoring program.

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Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.

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Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.

Sec. 802. Definition of domestic terrorism.

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Sec. 1016. Critical infrastructures protection.

SEC. 2. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

TITLE I--ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

SEC. 101. COUNTERTERRORISM FUND.

(a) ESTABLISHMENT; AVAILABILITY- There is hereby established in the Treasury of the United States a separate fund to be known as the 'Counterterrorism Fund', amounts in which shall remain available without fiscal year limitation--

(1) to reimburse any Department of Justice component for any costs incurred in connection with--

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) NO EFFECT ON PRIOR APPROPRIATIONS- Subsection (a) shall not be construed to affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of the enactment of this Act.

SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINATION AGAINST ARAB AND MUSLIM AMERICANS.

(a) FINDINGS- Congress makes the following findings:

(1) Arab Americans, Muslim Americans, and Americans from South Asia play a vital role in our Nation and are entitled to nothing less than the full rights of every American.

(2) The acts of violence that have been taken against Arab and Muslim Americans since the September 11, 2001, attacks against the United States should be and are condemned by all Americans who value freedom.

(3) The concept of individual responsibility for wrongdoing is sacrosanct in American society, and applies equally to all religious, racial, and ethnic groups.

(4) When American citizens commit acts of violence against those who are, or are perceived to be, of Arab or Muslim descent, they should be punished to the full extent of the law.

(5) Muslim Americans have become so fearful of harassment that many Muslim women are changing the way they dress to avoid becoming targets.

(6) Many Arab Americans and Muslim Americans have acted heroically during the attacks on the United States, including Mohammed Salman Hamdani, a 23-year-old New Yorker of Pakistani descent, who is believed to have gone to the World Trade Center to offer rescue assistance and is now missing.

(b) SENSE OF CONGRESS- It is the sense of Congress that--

(1) the civil rights and civil liberties of all Americans, including Arab Americans, Muslim Americans, and Americans from South Asia, must be protected, and that every effort must be taken to preserve their safety;

(2) any acts of violence or discrimination against any Americans be condemned; and

(3) the Nation is called upon to recognize the patriotism of fellow citizens from all ethnic, racial, and religious backgrounds.

SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUPPORT CENTER AT THE FEDERAL BUREAU OF INVESTIGATION.

There are authorized to be appropriated for the Technical Support Center established in section 811 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) to help meet the demands for activities to combat terrorism and support and enhance the technical support and tactical operations of the FBI, \$200,000,000 for each of the fiscal years 2002, 2003, and 2004.

SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO ENFORCE PROHIBITION IN CERTAIN EMERGENCIES.

Section 2332e of title 18, United States Code, is amended--

(1) by striking `2332c' and inserting `2332a'; and

(2) by striking `chemical'.

SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME TASK FORCE INITIATIVE.

The Director of the United States Secret Service shall take appropriate actions to develop a national network of electronic crime task forces, based on the New York Electronic Crimes Task Force model, throughout the United States, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.

SEC. 106. PRESIDENTIAL AUTHORITY.

Section 203 of the International Emergency Powers Act (50 U.S.C. 1702) is amended--

(1) in subsection (a)(1)--

(A) at the end of subparagraph (A) (flush to that subparagraph), by striking `; and' and inserting a comma and the following:

`by any person, or with respect to any property, subject to the jurisdiction of the United States;';

(B) in subparagraph (B)--

(i) by inserting `, block during the pendency of an investigation' after `investigate'; and

(ii) by striking `interest;' and inserting `interest by any person, or with respect to any property, subject to the jurisdiction of the United States; and';

(C) by striking `by any person, or with respect to any property, subject to the jurisdiction of the United States'; and

(D) by inserting at the end the following:

`(C) when the United States is engaged in armed hostilities or has been attacked by a foreign country or foreign nationals, confiscate any property, subject to the jurisdiction of the United States, of any foreign person, foreign organization, or foreign country that he determines has planned, authorized, aided, or engaged in such hostilities or attacks against the United States; and all right, title, and interest in any property so confiscated shall vest, when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time, and upon such terms and conditions as the President may prescribe, such interest or property shall be held, used,

administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.'; and

(2) by inserting at the end the following:

`(c) CLASSIFIED INFORMATION- In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.'.

TITLE II--ENHANCED SURVEILLANCE PROCEDURES

SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO TERRORISM.

Section 2516(1) of title 18, United States Code, is amended--

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-565), the following new paragraph:

`(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or'.

SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO COMPUTER FRAUD AND ABUSE OFFENSES.

Section 2516(1)(c) of title 18, United States Code, is amended by striking `and section 1341 (relating to mail fraud),' and inserting `section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),'.

SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE INFORMATION.

(a) AUTHORITY TO SHARE GRAND JURY INFORMATION-

(1) IN GENERAL- Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure is amended to read as follows:

`(C)(i) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made--

`(I) when so directed by a court preliminarily to or in connection with a judicial proceeding;

`(II) when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury;

`(III) when the disclosure is made by an attorney for the government to another Federal grand jury;

`(IV) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law; or

`(V) when the matters involve foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in clause (iv) of this subparagraph), to any Federal law enforcement, intelligence, protective,

immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties.

`(ii) If the court orders disclosure of matters occurring before the grand jury, the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct.

`(iii) Any Federal official to whom information is disclosed pursuant to clause (i)(V) of this subparagraph may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information. Within a reasonable time after such disclosure, an attorney for the government shall file under seal a notice with the court stating the fact that such information was disclosed and the departments, agencies, or entities to which the disclosure was made.

`(iv) In clause (i)(V) of this subparagraph, the term `foreign intelligence information' means--

`(I) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against--

`(aa) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

`(bb) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

`(cc) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of foreign power; or

`(II) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to--

`(aa) the national defense or the security of the United States; or

`(bb) the conduct of the foreign affairs of the United States.'.

(2) CONFORMING AMENDMENT- Rule 6(e)(3)(D) of the Federal Rules of Criminal Procedure is amended by striking `(e)(3)(C)(i)' and inserting `(e)(3)(C)(i)(I)'.

(b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION-

(1) LAW ENFORCEMENT- Section 2517 of title 18, United States Code, is amended by inserting at the end the following:

`(6) Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.'.

(2) DEFINITION- Section 2510 of title 18, United States Code, is amended by--

(A) in paragraph (17), by striking `and' after the semicolon;

(B) in paragraph (18), by striking the period and inserting `; and'; and

(C) by inserting at the end the following:

`(19) `foreign intelligence information' means--

`(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against--

`(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

`(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

`(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

`(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to--

`(i) the national defense or the security of the United States; or

`(ii) the conduct of the foreign affairs of the United States.'.

(c) PROCEDURES- The Attorney General shall establish procedures for the disclosure of information pursuant to section 2517(6) and Rule 6(e)(3)(C)(i)(V) of the Federal Rules of Criminal Procedure that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(d) FOREIGN INTELLIGENCE INFORMATION-

(1) IN GENERAL- Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of

his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(2) DEFINITION- In this subsection, the term `foreign intelligence information' means--

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against--

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to--

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS FROM LIMITATIONS ON INTERCEPTION AND DISCLOSURE OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.

Section 2511(2)(f) of title 18, United States Code, is amended--

(1) by striking `this chapter or chapter 121' and inserting `this chapter or chapter 121 or 206 of this title';
and

(2) by striking 'wire and oral' and inserting 'wire, oral, and electronic'.

SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FEDERAL BUREAU OF INVESTIGATION.

(a) **AUTHORITY-** The Director of the Federal Bureau of Investigation is authorized to expedite the employment of personnel as translators to support counterterrorism investigations and operations without regard to applicable Federal personnel requirements and limitations.

(b) **SECURITY REQUIREMENTS-** The Director of the Federal Bureau of Investigation shall establish such security requirements as are necessary for the personnel employed as translators under subsection (a).

(c) **REPORT-** The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate on--

(1) the number of translators employed by the FBI and other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis; and

(3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs.

SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended by inserting `, or in circumstances where the Court finds that the actions of the target of the application may have the effect of thwarting the identification of a specified person, such other persons,' after `specified person'.

SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS WHO ARE AGENTS OF A FOREIGN POWER.

(a) **DURATION -**

(1) SURVEILLANCE- Section 105(e)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)(1)) is amended by--

(A) inserting `(A)' after `except that'; and

(B) inserting before the period the following: `, and (B) an order under this Act for a surveillance targeted against an agent of a foreign power, as defined in section 101(b)(1)(A) may be for the period specified in the application or for 120 days, whichever is less'.

(2) PHYSICAL SEARCH- Section 304(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(1)) is amended by--

(A) striking `forty-five' and inserting `90';

(B) inserting `(A)' after `except that'; and

(C) inserting before the period the following: `, and (B) an order under this section for a physical search targeted against an agent of a foreign power as defined in section 101(b)(1)(A) may be for the period specified in the application or for 120 days, whichever is less'.

(b) EXTENSION-

(1) IN GENERAL- Section 105(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)(2)) is amended by--

(A) inserting `(A)' after `except that'; and

(B) inserting before the period the following: `, and (B) an extension of an order under this Act for a surveillance targeted against an agent of a foreign power as defined in section 101(b)(1)(A) may be for a period not to exceed 1 year'.

(2) DEFINED TERM- Section 304(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(2)) is amended by inserting after `not a United States person,' the following: `or against an agent of a foreign power as defined in section 101(b)(1)(A),'.

SEC. 208. DESIGNATION OF JUDGES.

Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended by--

(1) striking `seven district court judges' and inserting `11 district court judges'; and

(2) inserting `of whom no fewer than 3 shall reside within 20 miles of the District of Columbia' after `circuits'.

SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT TO WARRANTS.

Title 18, United States Code, is amended--

(1) in section 2510--

(A) in paragraph (1), by striking beginning with `and such' and all that follows through `communication'; and

(B) in paragraph (14), by inserting `wire or' after `transmission of'; and

(2) in subsections (a) and (b) of section 2703--

(A) by striking `CONTENTS OF ELECTRONIC' and inserting `CONTENTS OF WIRE OR ELECTRONIC' each place it appears;

(B) by striking `contents of an electronic' and inserting `contents of a wire or electronic' each place it appears; and

(C) by striking `any electronic' and inserting `any wire or electronic' each place it appears.

SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELECTRONIC COMMUNICATIONS.

Section 2703(c)(2) of title 18, United States Code, as redesignated by section 212, is amended--

(1) by striking `entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber' and inserting the following: `entity the--

`(A) name;

`(B) address;

`(C) local and long distance telephone connection records, or records of session times and durations;

`(D) length of service (including start date) and types of service utilized;

`(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

`(F) means and source of payment for such service (including any credit card or bank account number),

of a subscriber'; and

(2) by striking `and the types of services the subscriber or customer utilized,'.

SEC. 211. CLARIFICATION OF SCOPE.

Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended--

(1) in subsection (c)(2)--

(A) in subparagraph (B), by striking `or';

(B) in subparagraph (C), by striking the period at the end and inserting `; or'; and

(C) by inserting at the end the following:

`(D) to a government entity as authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing cable subscriber selection of video programming from a cable operator.'; and

(2) in subsection (h), by striking `A governmental entity' and inserting `Except as provided in subsection (c)(2)(D), a governmental entity'.

SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COMMUNICATIONS TO PROTECT LIFE AND LIMB.

(a) DISCLOSURE OF CONTENTS-

(1) IN GENERAL- Section 2702 of title 18, United States Code, is amended--

(A) by striking the section heading and inserting the following:

`Sec. 2702. Voluntary disclosure of customer communications or records';

(B) in subsection (a)--

(i) in paragraph (2)(A), by striking `and' at the end;

(ii) in paragraph (2)(B), by striking the period and inserting `; and'; and

(iii) by inserting after paragraph (2) the following:

`(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.';

(C) in subsection (b), by striking 'EXCEPTIONS- A person or entity' and inserting 'EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS- A provider described in subsection (a)';

(D) in subsection (b)(6)--

(i) in subparagraph (A)(ii), by striking 'or';

(ii) in subparagraph (B), by striking the period and inserting '; or'; and

(iii) by adding after subparagraph (B) the following:

'(C) if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.'; and

(E) by inserting after subsection (b) the following:

'(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS- A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))--

'(1) as otherwise authorized in section 2703;

'(2) with the lawful consent of the customer or subscriber;

'(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

'(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

'(5) to any person other than a governmental entity.'.

(2) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2702 and inserting the following:

`2702. Voluntary disclosure of customer communications or records.'.

(b) REQUIREMENTS FOR GOVERNMENT ACCESS-

(1) IN GENERAL- Section 2703 of title 18, United States Code, is amended--

(A) by striking the section heading and inserting the following:

`Sec. 2703. Required disclosure of customer communications or records';

(B) in subsection (c) by redesignating paragraph (2) as paragraph (3);

(C) in subsection (c)(1)--

(i) by striking `(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may' and inserting `A governmental entity may require a provider of electronic communication service or remote computing service to';

(ii) by striking `covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

`(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity' and inserting `)';

(iii) by redesignating subparagraph (C) as paragraph (2);

(iv) by redesignating clauses (i), (ii), (iii), and (iv) as subparagraphs (A), (B), (C), and (D), respectively;

(v) in subparagraph (D) (as redesignated) by striking the period and inserting `; or'; and

(vi) by inserting after subparagraph (D) (as redesignated) the following:

`(E) seeks information under paragraph (2).'; and

(D) in paragraph (2) (as redesignated) by striking `subparagraph (B)' and insert `paragraph (1)'.

(2) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2703 and inserting the following:

`2703. Required disclosure of customer communications or records.'.

SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXECUTION OF A WARRANT.

Section 3103a of title 18, United States Code, is amended--

(1) by inserting `(a) IN GENERAL- ' before `In addition'; and

(2) by adding at the end the following:

`(b) DELAY- With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evidence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if--

`(1) the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result (as defined in section 2705);

`(2) the warrant prohibits the seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity for the seizure; and

`(3) the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown.'.

SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.

(a) APPLICATIONS AND ORDERS- Section 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842) is amended--

(1) in subsection (a)(1), by striking `for any investigation to gather foreign intelligence information or information concerning international terrorism' and inserting `for any investigation to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution';

(2) by amending subsection (c)(2) to read as follows:

`(2) a certification by the applicant that the information likely to be obtained is foreign intelligence information not concerning a United States person or is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.';

(3) by striking subsection (c)(3); and

(4) by amending subsection (d)(2)(A) to read as follows:

`(A) shall specify--

`(i) the identity, if known, of the person who is the subject of the investigation;

`(ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;

`(iii) the attributes of the communications to which the order applies, such as the number or other identifier, and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied and, in the case of a trap and trace device, the geographic limits of the trap and trace order.'.

(b) AUTHORIZATION DURING EMERGENCIES- Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended--

(1) in subsection (a), by striking `foreign intelligence information or information concerning international terrorism' and inserting `foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution'; and

(2) in subsection (b)(1), by striking `foreign intelligence information or information concerning international terrorism' and inserting `foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution'.

SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT.

Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended by striking sections 501 through 503 and inserting the following:

`SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

`(a)(1) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

`(2) An investigation conducted under this section shall--

`(A) be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order); and

`(B) not be conducted of a United States person solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

`(b) Each application under this section--

`(1) shall be made to--

`(A) a judge of the court established by section 103(a); or

`(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the production of tangible things under this section on behalf of a judge of that court; and

`(2) shall specify that the records concerned are sought for an authorized investigation conducted in accordance with subsection (a)(2) to protect against international terrorism or clandestine intelligence activities.

`(c)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section.

`(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

`(d) No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.

`(e) A person who, in good faith, produces tangible things under an order pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

`SEC. 502. CONGRESSIONAL OVERSIGHT.

`(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for the production of tangible things under section 402.

`(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period--

 `(1) the total number of applications made for orders approving requests for the production of tangible things under section 402; and

 `(2) the total number of such orders either granted, modified, or denied.'.

SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO USE OF PEN REGISTERS AND TRAP AND TRACE DEVICES.

(a) GENERAL LIMITATIONS- Section 3121(c) of title 18, United States Code, is amended--

 (1) by inserting 'or trap and trace device' after 'pen register';

 (2) by inserting ', routing, addressing,' after 'dialing'; and

 (3) by striking 'call processing' and inserting 'the processing and transmitting of wire or electronic communications so as not to include the contents of any wire or electronic communications'.

(b) ISSUANCE OF ORDERS-

(1) IN GENERAL- Section 3123(a) of title 18, United States Code, is amended to read as follows:

`(a) IN GENERAL-

`(1) ATTORNEY FOR THE GOVERNMENT- Upon an application made under section 3122(a)(1), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device anywhere within the United States, if the court finds that the attorney for the Government has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. The order, upon service of that order, shall apply to any person or entity providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the order. Whenever such an order is served on any person or entity not specifically named in the order, upon request of such person or entity, the attorney for the Government or law enforcement or investigative officer that is serving the order shall provide written or electronic certification that the order applies to the person or entity being served.

`(2) STATE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER- Upon an application made under section 3122(a)(2), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device within the jurisdiction of the court, if the court finds that the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

`(3)(A) Where the law enforcement agency implementing an ex parte order under this subsection seeks to do so by installing and using its own pen register or trap and trace device on a packet-switched data network of a provider of electronic communication service to the public, the agency shall ensure that a record will be maintained which will identify--

`(i) any officer or officers who installed the device and any officer or officers who accessed the device to obtain information from the network;

`(ii) the date and time the device was installed, the date and time the device was uninstalled, and the date, time, and duration of each time the device is accessed to obtain information;

`(iii) the configuration of the device at the time of its installation and any subsequent modification thereof; and

`(iv) any information which has been collected by the device.

To the extent that the pen register or trap and trace device can be set automatically to record this information electronically, the record shall be maintained electronically throughout the installation and use of such device.

`(B) The record maintained under subparagraph (A) shall be provided ex parte and under seal to the court which entered the ex parte order authorizing the installation and use of the device within 30 days after termination of the order (including any extensions thereof).'

(2) CONTENTS OF ORDER- Section 3123(b)(1) of title 18, United States Code, is amended--

(A) in subparagraph (A)--

(i) by inserting 'or other facility' after 'telephone line'; and

(ii) by inserting before the semicolon at the end 'or applied'; and

(B) by striking subparagraph (C) and inserting the following:

`(C) the attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied, and, in the case of an order authorizing installation and use of a trap and trace device under subsection (a)(2), the geographic limits of the order; and'.

(3) NONDISCLOSURE REQUIREMENTS- Section 3123(d)(2) of title 18, United States Code, is amended--

(A) by inserting 'or other facility' after 'the line'; and

(B) by striking `, or who has been ordered by the court' and inserting `or applied, or who is obligated by the order'.

(c) DEFINITIONS-

(1) COURT OF COMPETENT JURISDICTION- Section 3127(2) of title 18, United States Code, is amended by striking subparagraph (A) and inserting the following:

`(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals having jurisdiction over the offense being investigated; or'.

(2) PEN REGISTER- Section 3127(3) of title 18, United States Code, is amended--

(A) by striking `electronic or other impulses' and all that follows through `is attached' and inserting `dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication'; and

(B) by inserting `or process' after `device' each place it appears.

(3) TRAP AND TRACE DEVICE- Section 3127(4) of title 18, United States Code, is amended--

(A) by striking `of an instrument' and all that follows through the semicolon and inserting `or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information shall not include the contents of any communication;'; and

(B) by inserting `or process' after `a device'.

(4) CONFORMING AMENDMENT- Section 3127(1) of title 18, United States Code, is amended--

(A) by striking `and'; and

(B) by inserting `, and `contents' after `electronic communication service'.

(5) TECHNICAL AMENDMENT- Section 3124(d) of title 18, United States Code, is amended by striking `the terms of'.

(6) CONFORMING AMENDMENT- Section 3124(b) of title 18, United States Code, is amended by inserting `or other facility' after `the appropriate line'.

SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COMMUNICATIONS.

Chapter 119 of title 18, United States Code, is amended--

(1) in section 2510--

(A) in paragraph (18), by striking `and' at the end;

(B) in paragraph (19), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (19) the following:

`(20) `protected computer' has the meaning set forth in section 1030; and

`(21) `computer trespasser'--

`(A) means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer; and

`(B) does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.'; and

(2) in section 2511(2), by inserting at the end the following:

`(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser transmitted to, through, or from the protected computer, if--

`(I) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

`(II) the person acting under color of law is lawfully engaged in an investigation;

`(III) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

`(IV) such interception does not acquire communications other than those transmitted to or from the computer trespasser.'.

SEC. 218. FOREIGN INTELLIGENCE INFORMATION.

Sections 104(a)(7)(B) and section 303(a)(7)(B) (50 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign Intelligence Surveillance Act of 1978 are each amended by striking 'the purpose' and inserting 'a significant purpose'.

SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR TERRORISM.

Rule 41(a) of the Federal Rules of Criminal Procedure is amended by inserting after 'executed' the following: 'and (3) in an investigation of domestic terrorism or international terrorism (as defined in section 2331 of title 18, United States Code), by a Federal magistrate judge in any district in which activities related to the terrorism may have occurred, for a search of property or for a person within or outside the district'.

SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS FOR ELECTRONIC EVIDENCE.

(a) IN GENERAL- Chapter 121 of title 18, United States Code, is amended--

(1) in section 2703, by striking 'under the Federal Rules of Criminal Procedure' every place it appears and inserting 'using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation'; and

(2) in section 2711--

(A) in paragraph (1), by striking 'and';

(B) in paragraph (2), by striking the period and inserting '; and'; and

(C) by inserting at the end the following:

'(3) the term 'court of competent jurisdiction' has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation.'.

(b) CONFORMING AMENDMENT- Section 2703(d) of title 18, United States Code, is amended by striking 'described in section 3127(2)(A)'.

SEC. 221. TRADE SANCTIONS.

(a) IN GENERAL- The Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106-387; 114 Stat. 1549A-67) is amended--

(1) by amending section 904(2)(C) to read as follows:

'(C) used to facilitate the design, development, or production of chemical or biological weapons, missiles, or weapons of mass destruction.';

(2) in section 906(a)(1)--

(A) by inserting ', the Taliban or the territory of Afghanistan controlled by the Taliban,' after 'Cuba'; and

(B) by inserting `, or in the territory of Afghanistan controlled by the Taliban,' after `within such country'; and

(3) in section 906(a)(2), by inserting `, or to any other entity in Syria or North Korea' after `Korea'.

(b) APPLICATION OF THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT- Nothing in the Trade Sanctions Reform and Export Enhancement Act of 2000 shall limit the application or scope of any law establishing criminal or civil penalties, including any executive order or regulation promulgated pursuant to such laws (or similar or successor laws), for the unlawful export of any agricultural commodity, medicine, or medical device to--

(1) a foreign organization, group, or person designated pursuant to Executive Order 12947 of January 23, 1995, as amended;

(2) a Foreign Terrorist Organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132);

(3) a foreign organization, group, or person designated pursuant to Executive Order 13224 (September 23, 2001);

(4) any narcotics trafficking entity designated pursuant to Executive Order 12978 (October 21, 1995) or the Foreign Narcotics Kingpin Designation Act (Public Law 106-120); or

(5) any foreign organization, group, or persons subject to any restriction for its involvement in weapons of mass destruction or missile proliferation.

SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.

Nothing in this Act shall impose any additional technical obligation or requirement on a provider of a wire or electronic communication service or other person to furnish facilities or technical assistance. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to section 216 shall be reasonably compensated for such reasonable expenditures incurred in providing such facilities or assistance.

SEC. 223. CIVIL LIABILITY FOR CERTAIN UNAUTHORIZED DISCLOSURES.

(a) Section 2520 of title 18, United States Code, is amended--

(1) in subsection (a), after `entity', by inserting `, other than the United States,';

(2) by adding at the end the following:

`(f) ADMINISTRATIVE DISCIPLINE- If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.'; and

(3) by adding a new subsection (g), as follows:

`(g) IMPROPER DISCLOSURE IS VIOLATION- Any willful disclosure or use by an investigative or law enforcement officer or governmental entity of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2520(a).

(b) Section 2707 of title 18, United States Code, is amended--

(1) in subsection (a), after `entity', by inserting `, other than the United States,';

(2) by striking subsection (d) and inserting the following:

`(d) ADMINISTRATIVE DISCIPLINE- If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action

is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.'; and

(3) by adding a new subsection (g), as follows:

`(g) IMPROPER DISCLOSURE- Any willful disclosure of a `record', as that term is defined in section 552a(a) of title 5, United States Code, obtained by an investigative or law enforcement officer, or a governmental entity, pursuant to section 2703 of this title, or from a device installed pursuant to section 3123 or 3125 of this title, that is not a disclosure made in the proper performance of the official functions of the officer or governmental entity making the disclosure, is a violation of this chapter. This provision shall not apply to information previously lawfully disclosed (prior to the commencement of any civil or administrative proceeding under this chapter) to the public by a Federal, State, or local governmental entity or by the plaintiff in a civil action under this chapter.'

(c)(1) Chapter 121 of title 18, United States Code, is amended by adding at the end the following:

`Sec. 2712. Civil actions against the United States

`(a) IN GENERAL- Any person who is aggrieved by any willful violation of this chapter or of chapter 119 of this title or of sections 106(a), 305(a), or 405(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) may commence an action in United States District Court against the United States to recover money damages. In any such action, if a person who is aggrieved successfully establishes such a violation of this chapter or of chapter 119 of this title or of the above specific provisions of title 50, the Court may assess as damages--

`(1) actual damages, but not less than \$10,000, whichever amount is greater; and

`(2) litigation costs, reasonably incurred.

`(b) PROCEDURES- (1) Any action against the United States under this section may be commenced only after a claim is presented to the appropriate department or agency under the procedures of the Federal Tort Claims Act, as set forth in title 28, United States Code. `(2) Any action against the United States under this section shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented. The claim shall accrue on the date upon which the claimant first has a reasonable opportunity to discover the violation.'

`(3) Any action under this section shall be tried to the court without a jury.

`(4) Notwithstanding any other provision of law, the procedures set forth in section 106(f), 305(g), or 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which materials governed by those sections may be reviewed.

`(5) An amount equal to any award against the United States under this section shall be reimbursed by the department or agency concerned to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, fund, or account that is available for the enforcement of any Federal law) that is available for the operating expenses of the department or agency concerned.

`(c) ADMINISTRATIVE DISCIPLINE- If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the possible violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

`(d) EXCLUSIVE REMEDY- Any action against the United States under this subsection shall be the exclusive remedy against the United States for any claims within the purview of this section.

`(e) STAY OF PROCEEDINGS- (1) Upon the motion of the United States, the court shall stay any action commenced under this section if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related investigation or the prosecution of a related criminal case. Such a stay shall toll the limitations periods of paragraph (2) of subsection (b).

`(2) In this subsection, the terms 'related criminal case' and 'related investigation' mean an actual prosecution or investigation in progress at the time at which the request for the stay or any subsequent motion to lift the stay is made. In determining whether an investigation or a criminal case is related to an action commenced under this section, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the 2 proceedings, without requiring that any one or more factors be identical.

`(3) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid disclosing any matter that may adversely affect a related investigation or a related criminal case. If the Government makes such an ex parte submission, the plaintiff shall be given an opportunity to make a submission to the court, not ex parte, and the court may, in its discretion, request further information from either party.'.

(2) The table of sections at the beginning of chapter 121 is amended to read as follows:

‘2712. Civil action against the United States.’.

SEC. 224. SUNSET.

(a) IN GENERAL- Except as provided in subsection (b), this title and the amendments made by this title (other than sections 203(a), 203(c), 205, 208, 210, 211, 213, 216, 219, 221, and 222, and the amendments made by those sections) shall cease to have effect on December 31, 2005.

(b) EXCEPTION- With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.

SEC. 225. IMMUNITY FOR COMPLIANCE WITH FISA WIRETAP.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended by inserting after subsection (g) the following:

‘(h) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance in accordance with a court order or request for emergency assistance under this Act.’.

TITLE III--INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001

SEC. 301. SHORT TITLE.

This title may be cited as the ‘International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001’.

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds that--

- (1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least \$600,000,000,000 annually, provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;
- (2) money laundering, and the defects in financial transparency on which money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks;
- (3) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and the financing of crime and terrorism, and, by so doing, can threaten the safety of United States citizens and undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;
- (4) certain jurisdictions outside of the United States that offer 'offshore' banking and related facilities designed to provide anonymity, coupled with weak financial supervisory and enforcement regimes, provide essential tools to disguise ownership and movement of criminal funds, derived from, or used to commit, offenses ranging from narcotics trafficking, terrorism, arms smuggling, and trafficking in human beings, to financial frauds that prey on law-abiding citizens;
- (5) transactions involving such offshore jurisdictions make it difficult for law enforcement officials and regulators to follow the trail of money earned by criminals, organized international criminal enterprises, and global terrorist organizations;
- (6) correspondent banking facilities are one of the banking mechanisms susceptible in some circumstances to manipulation by foreign banks to permit the laundering of funds by hiding the identity of real parties in interest to financial transactions;
- (7) private banking services can be susceptible to manipulation by money launderers, for example corrupt foreign government officials, particularly if those services include the creation of offshore accounts and facilities for large personal funds transfers to channel funds into accounts around the globe;

(8) United States anti-money laundering efforts are impeded by outmoded and inadequate statutory provisions that make investigations, prosecutions, and forfeitures more difficult, particularly in cases in which money laundering involves foreign persons, foreign banks, or foreign countries;

(9) the ability to mount effective counter-measures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

(10) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

(b) PURPOSES- The purposes of this title are--

(1) to increase the strength of United States measures to prevent, detect, and prosecute international money laundering and the financing of terrorism;

(2) to ensure that--

(A) banking transactions and financial relationships and the conduct of such transactions and relationships, do not contravene the purposes of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act, or chapter 2 of title I of Public Law 91-508 (84 Stat. 1116), or facilitate the evasion of any such provision; and

(B) the purposes of such provisions of law continue to be fulfilled, and such provisions of law are effectively and efficiently administered;

(3) to strengthen the provisions put into place by the Money Laundering Control Act of 1986 (18 U.S.C. 981 note), especially with respect to crimes by non-United States nationals and foreign financial institutions;

- (4) to provide a clear national mandate for subjecting to special scrutiny those foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts that pose particular, identifiable opportunities for criminal abuse;
- (5) to provide the Secretary of the Treasury (in this title referred to as the 'Secretary') with broad discretion, subject to the safeguards provided by the Administrative Procedure Act under title 5, United States Code, to take measures tailored to the particular money laundering problems presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts;
- (6) to ensure that the employment of such measures by the Secretary permits appropriate opportunity for comment by affected financial institutions;
- (7) to provide guidance to domestic financial institutions on particular foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions that are of primary money laundering concern to the United States Government;
- (8) to ensure that the forfeiture of any assets in connection with the anti-terrorist efforts of the United States permits for adequate challenge consistent with providing due process rights;
- (9) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;
- (10) to strengthen the authority of the Secretary to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91-508 and subchapters II and III of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;
- (11) to ensure that all appropriate elements of the financial services industry are subject to appropriate requirements to report potential money laundering transactions to proper authorities, and that jurisdictional disputes do not hinder examination of compliance by financial institutions with relevant reporting requirements;

(12) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

(13) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

SEC. 303. 4-YEAR CONGRESSIONAL REVIEW; EXPEDITED CONSIDERATION.

(a) IN GENERAL- Effective on and after the first day of fiscal year 2005, the provisions of this title and the amendments made by this title shall terminate if the Congress enacts a joint resolution, the text after the resolving clause of which is as follows: `That provisions of the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, and the amendments made thereby, shall no longer have the force of law.'.

(b) EXPEDITED CONSIDERATION- Any joint resolution submitted pursuant to this section should be considered by the Congress expeditiously. In particular, it shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Control Act of 1976.

Subtitle A--International Counter Money Laundering and Related Measures

SEC. 311. SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, OR INTERNATIONAL TRANSACTIONS OF PRIMARY MONEY LAUNDERING CONCERN.

(a) IN GENERAL- Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5318 the following new section:

`Sec. 5318A. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern

`(a) INTERNATIONAL COUNTER-MONEY LAUNDERING REQUIREMENTS-

`(1) IN GENERAL- The Secretary of the Treasury may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in subsection (b) if the Secretary finds that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of

transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern, in accordance with subsection (c).

`(2) FORM OF REQUIREMENT- The special measures described in--

`(A) subsection (b) may be imposed in such sequence or combination as the Secretary shall determine;

`(B) paragraphs (1) through (4) of subsection (b) may be imposed by regulation, order, or otherwise as permitted by law; and

`(C) subsection (b)(5) may be imposed only by regulation.

`(3) DURATION OF ORDERS; RULEMAKING- Any order by which a special measure described in paragraphs (1) through (4) of subsection (b) is imposed (other than an order described in section 5326)--

`(A) shall be issued together with a notice of proposed rulemaking relating to the imposition of such special measure; and

`(B) may not remain in effect for more than 120 days, except pursuant to a rule promulgated on or before the end of the 120-day period beginning on the date of issuance of such order.

`(4) PROCESS FOR SELECTING SPECIAL MEASURES- In selecting which special measure or measures to take under this subsection, the Secretary of the Treasury--

`(A) shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, the Secretary of State, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the National Credit Union Administration Board, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and

`(B) shall consider--

`(i) whether similar action has been or is being taken by other nations or multilateral groups;

`(ii) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;

`(iii) the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, or class of transactions; and

`(iv) the effect of the action on United States national security and foreign policy.

`(5) NO LIMITATION ON OTHER AUTHORITY- This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

`(b) SPECIAL MEASURES- The special measures referred to in subsection (a), with respect to a jurisdiction outside of the United States, financial institution operating outside of the United States, class of transaction within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts are as follows:

`(1) RECORDKEEPING AND REPORTING OF CERTAIN FINANCIAL TRANSACTIONS-

`(A) IN GENERAL- The Secretary of the Treasury may require any domestic financial institution or domestic financial agency to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or

involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or class of transactions to be of primary money laundering concern.

`(B) FORM OF RECORDS AND REPORTS- Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such information as the Secretary may determine, including--

`(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

`(ii) the legal capacity in which a participant in any transaction is acting;

`(iii) the identity of the beneficial owner of the funds involved in any transaction, in accordance with such procedures as the Secretary determines to be reasonable and practicable to obtain and retain the information; and

`(iv) a description of any transaction.

`(2) INFORMATION RELATING TO BENEFICIAL OWNERSHIP- In addition to any other requirement under any other provision of law, the Secretary may require any domestic financial institution or domestic financial agency to take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person (other than a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market), or a representative of such a foreign person, that involves a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or transaction or type of account to be of primary money laundering concern.

`(3) INFORMATION RELATING TO CERTAIN PAYABLE-THROUGH ACCOUNTS- If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a payable through account through which any such transaction may be conducted, as a condition of opening or maintaining such account--

`(A) to identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

`(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

`(4) INFORMATION RELATING TO CERTAIN CORRESPONDENT ACCOUNTS- If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a correspondent account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a correspondent account through which any such transaction may be conducted, as a condition of opening or maintaining such account--

`(A) to identify each customer (and representative of such customer) of any such financial institution who is permitted to use, or whose transactions are routed through, such correspondent account; and

`(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution

obtains in the ordinary course of business with respect to its customers residing in the United States.

`(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS- If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable- through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution, if such correspondent account or payable-through account involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account or payable-through account.

`(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN-

`(1) IN GENERAL- In making a finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern so as to authorize the Secretary of the Treasury to take 1 or more of the special measures described in subsection (b), the Secretary shall consult with the Secretary of State and the Attorney General.

`(2) ADDITIONAL CONSIDERATIONS- In making a finding described in paragraph (1), the Secretary shall consider in addition such information as the Secretary determines to be relevant, including the following potentially relevant factors:

`(A) JURISDICTIONAL FACTORS- In the case of a particular jurisdiction--

`(i) evidence that organized criminal groups, international terrorists, or both, have transacted business in that jurisdiction;

`(ii) the extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;

`(iii) the substance and quality of administration of the bank supervisory and counter-money laundering laws of that jurisdiction;

`(iv) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;

`(v) the extent to which that jurisdiction is characterized as an offshore banking or secrecy haven by credible international organizations or multilateral expert groups;

`(vi) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of United States law enforcement officials and regulatory officials in obtaining information about transactions originating in or routed through or to such jurisdiction; and

`(vii) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

`(B) INSTITUTIONAL FACTORS- In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or institutions, or to a transaction or class of transactions, or to a type of account, or to all 3, within or involving a particular jurisdiction--

`(i) the extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction;

`(ii) the extent to which such institutions, transactions, or types of accounts are used for legitimate business purposes in the jurisdiction; and

`(iii) the extent to which such action is sufficient to ensure, with respect to transactions involving the jurisdiction and institutions operating in the jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

`(d) NOTIFICATION OF SPECIAL MEASURES INVOKED BY THE SECRETARY- Not later than 10 days after the date of any action taken by the Secretary of the Treasury under subsection (a)(1), the Secretary shall notify, in writing, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of any such action.

`(e) DEFINITIONS- Notwithstanding any other provision of this subchapter, for purposes of this section and subsections (i) and (j) of section 5318, the following definitions shall apply:

`(1) BANK DEFINITIONS- The following definitions shall apply with respect to a bank:

`(A) ACCOUNT- The term 'account'--

`(i) means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

`(ii) includes a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit.

`(B) CORRESPONDENT ACCOUNT- The term 'correspondent account' means an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution.

`(C) PAYABLE-THROUGH ACCOUNT- The term 'payable-through account' means an account, including a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act), opened at a depository institution by a foreign financial institution by

means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

`(2) DEFINITIONS APPLICABLE TO INSTITUTIONS OTHER THAN BANKS- With respect to any financial institution other than a bank, the Secretary shall, after consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act), define by regulation the term `account', and shall include within the meaning of that term, to the extent, if any, that the Secretary deems appropriate, arrangements similar to payable-through and correspondent accounts.

`(3) REGULATORY DEFINITION OF BENEFICIAL OWNERSHIP- The Secretary shall promulgate regulations defining beneficial ownership of an account for purposes of this section and subsections (i) and (j) of section 5318. Such regulations shall address issues related to an individual's authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account), and an individual's material interest in the income or corpus of the account, and shall ensure that the identification of individuals under this section does not extend to any individual whose beneficial interest in the income or corpus of the account is immaterial.'

`(4) OTHER TERMS- The Secretary may, by regulation, further define the terms in paragraphs (1), (2), and (3), and define other terms for the purposes of this section, as the Secretary deems appropriate.'

(b) CLERICAL AMENDMENT- The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5318 the following new item:

`5318A. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.'

SEC. 312. SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS.

(a) IN GENERAL- Section 5318 of title 31, United States Code, is amended by adding at the end the following:

`(i) DUE DILIGENCE FOR UNITED STATES PRIVATE BANKING AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS-

`(1) IN GENERAL- Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts.

`(2) ADDITIONAL STANDARDS FOR CERTAIN CORRESPONDENT ACCOUNTS-

`(A) IN GENERAL- Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating--

`(i) under an offshore banking license; or

`(ii) under a banking license issued by a foreign country that has been designated--

`(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; or

`(II) by the Secretary of the Treasury as warranting special measures due to money laundering concerns.

`(B) POLICIES, PROCEDURES, AND CONTROLS- The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps--

`(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

`(ii) to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under subsection (g); and

`(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

`(3) MINIMUM STANDARDS FOR PRIVATE BANKING ACCOUNTS- If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps--

`(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under subsection (g); and

`(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

`(4) DEFINITION- For purposes of this subsection, the following definitions shall apply:

`(A) OFFSHORE BANKING LICENSE- The term 'offshore banking license' means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.'

`(B) PRIVATE BANKING ACCOUNT- The term `private banking account' means an account (or any combination of accounts) that--

`(i) requires a minimum aggregate deposits of funds or other assets of not less than \$1,000,000;

`(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

`(iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.'.

(b) REGULATORY AUTHORITY AND EFFECTIVE DATE-

(1) REGULATORY AUTHORITY- Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act) of the affected financial institutions, shall further delineate, by regulation, the due diligence policies, procedures, and controls required under section 5318(i)(1) of title 31, United States Code, as added by this section.

(2) EFFECTIVE DATE- Section 5318(i) of title 31, United States Code, as added by this section, shall take effect 270 days after the date of enactment of this Act, whether or not final regulations are issued under paragraph (1), and the failure to issue such regulations shall in no way affect the enforceability of this section or the amendments made by this section. Section 5318(i) of title 31, United States Code, as added by this section, shall apply with respect to accounts covered by that section 5318(i), that are opened before, on, or after the date of enactment of this Act.

SEC. 313. PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.

(a) IN GENERAL- Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:

`(j) PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS-

`(1) IN GENERAL- A financial institution described in subparagraphs (A) through (G) of section 5312(a)(2) (in this subsection referred to as a `covered financial institution') shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

`(2) PREVENTION OF INDIRECT SERVICE TO FOREIGN SHELL BANKS- A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary of the Treasury shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

`(3) EXCEPTION- Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank--

`(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

`(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank described in subparagraph (A), as applicable.

`(4) DEFINITIONS- For purposes of this subsection--

`(A) the term `affiliate' means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

`(B) the term `physical presence' means a place of business that--

`(i) is maintained by a foreign bank;

`(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank--

`(I) employs 1 or more individuals on a full-time basis; and

`(II) maintains operating records related to its banking activities; and

`(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect at the end of the 60-day period beginning on the date of enactment of this Act.

SEC. 314. COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING.

(a) COOPERATION AMONG FINANCIAL INSTITUTIONS, REGULATORY AUTHORITIES, AND LAW ENFORCEMENT AUTHORITIES-

(1) REGULATIONS- The Secretary shall, within 120 days after the date of enactment of this Act, adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.

(2) COOPERATION AND INFORMATION SHARING PROCEDURES- The regulations adopted under paragraph (1) may include or create procedures for cooperation and information sharing focusing on--

(A) matters specifically related to the finances of terrorist groups, the means by which terrorist groups transfer funds around the world and within the United States, including through the use of charitable organizations, nonprofit organizations, and

nongovernmental organizations, and the extent to which financial institutions in the United States are unwittingly involved in such finances and the extent to which such institutions are at risk as a result;

(B) the relationship, particularly the financial relationship, between international narcotics traffickers and foreign terrorist organizations, the extent to which their memberships overlap and engage in joint activities, and the extent to which they cooperate with each other in raising and transferring funds for their respective purposes; and

(C) means of facilitating the identification of accounts and transactions involving terrorist groups and facilitating the exchange of information concerning such accounts and transactions between financial institutions and law enforcement organizations.

(3) CONTENTS- The regulations adopted pursuant to paragraph (1) may--

(A) require that each financial institution designate 1 or more persons to receive information concerning, and to monitor accounts of individuals, entities, and organizations identified, pursuant to paragraph (1); and

(B) further establish procedures for the protection of the shared information, consistent with the capacity, size, and nature of the institution to which the particular procedures apply.

(4) RULE OF CONSTRUCTION- The receipt of information by a financial institution pursuant to this section shall not relieve or otherwise modify the obligations of the financial institution with respect to any other person or account.

(5) USE OF INFORMATION- Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve terrorist acts or money laundering activities.

(b) COOPERATION AMONG FINANCIAL INSTITUTIONS- Upon notice provided to the Secretary, 2 or more financial institutions and any association of financial institutions may share information with one another regarding

individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities. A financial institution or association that transmits, receives, or shares such information for the purposes of identifying and reporting activities that may involve terrorist acts or money laundering activities shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated pursuant to this section.

(c) RULE OF CONSTRUCTION- Compliance with the provisions of this title requiring or allowing financial institutions and any association of financial institutions to disclose or share information regarding individuals, entities, and organizations engaged in or suspected of engaging in terrorist acts or money laundering activities shall not constitute a violation of the provisions of title V of the Gramm-Leach-Bliley Act (Public Law 106-102).

(d) REPORTS TO THE FINANCIAL SERVICES INDUSTRY ON SUSPICIOUS FINANCIAL ACTIVITIES- At least semiannually, the Secretary shall--

(1) publish a report containing a detailed analysis identifying patterns of suspicious activity and other investigative insights derived from suspicious activity reports and investigations conducted by Federal, State, and local law enforcement agencies to the extent appropriate; and

(2) distribute such report to financial institutions (as defined in section 5312 of title 31, United States Code).

SEC. 315. INCLUSION OF FOREIGN CORRUPTION OFFENSES AS MONEY LAUNDERING CRIMES.

Section 1956(c)(7) of title 18, United States Code, is amended--

(1) in subparagraph (B)--

(A) in clause (ii), by striking `or destruction of property by means of explosive or fire' and inserting `destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16)';

(B) in clause (iii), by striking `1978' and inserting `1978)'; and

(C) by adding at the end the following:

`(iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

`(v) smuggling or export control violations involving--

`(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

`(II) an item controlled under regulations under the Export Administration Regulations (15 C.F.R. Parts 730-774); or

`(vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States;'; and

(2) in subparagraph (D)--

(A) by inserting `section 541 (relating to goods falsely classified),' before `section 542';

(B) by inserting `section 922(1) (relating to the unlawful importation of firearms), section 924(n) (relating to firearms trafficking),' before `section 956';

(C) by inserting `section 1030 (relating to computer fraud and abuse),' before `1032'; and

(D) by inserting `any felony violation of the Foreign Agents Registration Act of 1938,' before `or any felony violation of the Foreign Corrupt Practices Act'.

SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.

(a) **RIGHT TO CONTEST-** An owner of property that is confiscated under any provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that--

(1) the property is not subject to confiscation under such provision of law; or

(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

(b) **EVIDENCE-** In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

(c) **CLARIFICATIONS-**

(1) **PROTECTION OF RIGHTS-** The exclusion of certain provisions of Federal law from the definition of the term 'civil forfeiture statute' in section 983(i) of title 18, United States Code, shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under--

(A) subsection (a) of this section;

(B) the Constitution; or

(C) subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

(2) **SAVINGS CLAUSE-** Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 of title 18, United States Code, or any other provision of law.

(d) **TECHNICAL CORRECTION-** Section 983(i)(2)(D) of title 18, United States Code, is amended by inserting 'or the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.)' before the semicolon.

SEC. 317. LONG-ARM JURISDICTION OVER FOREIGN MONEY LAUNDERERS.

Section 1956(b) of title 18, United States Code, is amended--

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the right;

(2) by inserting after `(b)' the following: `PENALTIES-

`(1) IN GENERAL- ';

(3) by inserting `, or section 1957' after `or (a)(3)'; and

(4) by adding at the end the following:

`(2) JURISDICTION OVER FOREIGN PERSONS- For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and--

`(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

`(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or

`(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

`(3) COURT AUTHORITY OVER ASSETS- A court described in paragraph (2) may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

`(4) FEDERAL RECEIVER-

`(A) IN GENERAL- A court described in paragraph (2) may appoint a Federal Receiver, in accordance with subparagraph (B) of this paragraph, to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a civil judgment under this subsection, a forfeiture judgment under section 981 or 982, or a criminal sentence under section 1957 or subsection (a) of this section, including an order of restitution to any victim of a specified unlawful activity.

`(B) APPOINTMENT AND AUTHORITY- A Federal Receiver described in subparagraph (A)--

`(i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

`(ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and

`(iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant--

`(I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

`(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other

arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.'.

SEC. 318. LAUNDERING MONEY THROUGH A FOREIGN BANK.

Section 1956(c) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

`(6) the term `financial institution' includes--

`(A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and

`(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).'

SEC. 319. FORFEITURE OF FUNDS IN UNITED STATES INTERBANK ACCOUNTS.

(a) FORFEITURE FROM UNITED STATES INTERBANK ACCOUNT- Section 981 of title 18, United States Code, is amended by adding at the end the following:

`(k) INTERBANK ACCOUNTS-

`(1) IN GENERAL-

`(A) IN GENERAL- For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section 5318(j)(1) of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

`(B) AUTHORITY TO SUSPEND- The Attorney General, in consultation with the Secretary of the Treasury, may suspend or terminate a forfeiture under this section if the Attorney General determines that a conflict of law exists between the laws of the jurisdiction in which the foreign bank is located and the laws of the United States with respect to liabilities arising from the restraint, seizure, or arrest of such funds, and that such suspension or termination would be in the interest of justice and would not harm the national interests of the United States.

`(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS- If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly traceable to the funds that were deposited into the foreign bank, nor shall it be necessary for the Government to rely on the application of section 984.

`(3) CLAIMS BROUGHT BY OWNER OF THE FUNDS- If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign bank may contest the forfeiture by filing a claim under section 983.

`(4) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:

`(A) INTERBANK ACCOUNT- The term `interbank account' has the same meaning as in section 984(c)(2)(B).

`(B) OWNER-

`(i) IN GENERAL- Except as provided in clause (ii), the term `owner'--

`(I) means the person who was the owner, as that term is defined in section 983(d)(6), of the funds that were deposited into the foreign bank at the time such funds were deposited; and

`(II) does not include either the foreign bank or any financial institution acting as an intermediary in the transfer of the funds into the interbank account.

`(ii) EXCEPTION- The foreign bank may be considered the `owner' of the funds (and no other person shall qualify as the owner of such funds) only if--

`(I) the basis for the forfeiture action is wrongdoing committed by the foreign bank; or

`(II) the foreign bank establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign bank had discharged all or part of its obligation to the prior owner of the funds, in which case the foreign bank shall be deemed the owner of the funds to the extent of such discharged obligation.'.

(b) BANK RECORDS- Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:

`(k) BANK RECORDS RELATED TO ANTI-MONEY LAUNDERING PROGRAMS-

`(1) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:

`(A) APPROPRIATE FEDERAL BANKING AGENCY- The term `appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

`(B) INCORPORATED TERM- The term `correspondent account' has the same meaning as in section 5318A(f)(1)(B).

`(2) 120-HOUR RULE- Not later than 120 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial

institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

`(3) FOREIGN BANK RECORDS-

`(A) SUMMONS OR SUBPOENA OF RECORDS-

`(i) IN GENERAL- The Secretary of the Treasury or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank.

`(ii) SERVICE OF SUMMONS OR SUBPOENA- A summons or subpoena referred to in clause (i) may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

`(B) ACCEPTANCE OF SERVICE-

`(i) MAINTAINING RECORDS IN THE UNITED STATES- Any covered financial institution which maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

`(ii) LAW ENFORCEMENT REQUEST- Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

`(C) TERMINATION OF CORRESPONDENT RELATIONSHIP-

`(i) TERMINATION UPON RECEIPT OF NOTICE- A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General (in each case, after consultation with the other) that the foreign bank has failed--

`(I) to comply with a summons or subpoena issued under subparagraph (A); or

`(II) to initiate proceedings in a United States court contesting such summons or subpoena.

`(ii) LIMITATION ON LIABILITY- A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

`(iii) FAILURE TO TERMINATE RELATIONSHIP- Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to \$10,000 per day until the correspondent relationship is so terminated.'.

(c) GRACE PERIOD- Financial institutions shall have 60 days from the date of enactment of this Act to comply with the provisions of section 5318(k) of title 31, United States Code, as added by this section.

(d) AUTHORITY TO ORDER CONVICTED CRIMINAL TO RETURN PROPERTY LOCATED ABROAD-

(1) FORFEITURE OF SUBSTITUTE PROPERTY- Section 413(p) of the Controlled Substances Act (21 U.S.C. 853) is amended to read as follows:

`(p) FORFEITURE OF SUBSTITUTE PROPERTY-

`(1) IN GENERAL- Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant--

`(A) cannot be located upon the exercise of due diligence;

`(B) has been transferred or sold to, or deposited with, a third party;

`(C) has been placed beyond the jurisdiction of the court;

`(D) has been substantially diminished in value; or

`(E) has been commingled with other property which cannot be divided without difficulty.

`(2) SUBSTITUTE PROPERTY- In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

`(3) RETURN OF PROPERTY TO JURISDICTION- In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.'.

(2) PROTECTIVE ORDERS- Section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)) is amended by adding at the end the following:

`(4) ORDER TO REPATRIATE AND DEPOSIT-

`(A) IN GENERAL- Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

`(B) FAILURE TO COMPLY- Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.'.

SEC. 320. PROCEEDS OF FOREIGN CRIMES.

Section 981(a)(1)(B) of title 18, United States Code, is amended to read as follows:

`(B) Any property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation, or any property used to facilitate such an offense, if the offense--

`(i) involves the manufacture, importation, sale, or distribution of a controlled substance (as that term is defined for purposes of the Controlled Substances Act), or any other conduct described in section 1956(c)(7)(B);

`(ii) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding 1 year; and

`(iii) would be punishable under the laws of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.'.

SEC. 321. FINANCIAL INSTITUTIONS SPECIFIED IN SUBCHAPTER II OF CHAPTER 53 OF TITLE 31, UNITED STATES CODE.

(a) CREDIT UNIONS- Subparagraph (E) of section 5312(2) of title 31, United States Code, is amended to read as follows:

`(E) any credit union;'

(b) FUTURES COMMISSION MERCHANT; COMMODITY TRADING ADVISOR; COMMODITY POOL OPERATOR- Section 5312 of title 31, United States Code, is amended by adding at the end the following new subsection:

`(c) ADDITIONAL DEFINITIONS- For purposes of this subchapter, the following definitions shall apply:

`(1) CERTAIN INSTITUTIONS INCLUDED IN DEFINITION- The term `financial institution' (as defined in subsection (a)) includes the following:

`(A) Any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act.'

(c) CFTC INCLUDED- For purposes of this Act and any amendment made by this Act to any other provision of law, the term `Federal functional regulator' includes the Commodity Futures Trading Commission.

SEC. 322. CORPORATION REPRESENTED BY A FUGITIVE.

Section 2466 of title 18, United States Code, is amended by designating the present matter as subsection (a), and adding at the end the following:

`(b) Subsection (a) may be applied to a claim filed by a corporation if any majority shareholder, or individual filing the claim on behalf of the corporation is a person to whom subsection (a) applies.'

SEC. 323. ENFORCEMENT OF FOREIGN JUDGMENTS.

Section 2467 of title 28, United States Code, is amended--

(1) in subsection (d), by adding the following after paragraph (2):

`(3) PRESERVATION OF PROPERTY-

`(A) IN GENERAL- To preserve the availability of property subject to a foreign forfeiture or confiscation judgment, the Government may apply for, and the court may issue, a restraining order pursuant to section 983(j) of title 18, at any time before or after an application is filed pursuant to subsection (c)(1) of this section.

`(B) EVIDENCE- The court, in issuing a restraining order under subparagraph (A)--

`(i) may rely on information set forth in an affidavit describing the nature of the proceeding or investigation underway in the foreign country, and setting forth a reasonable basis to believe that the property to be restrained will be named in a judgment of forfeiture at the conclusion of such proceeding; or

`(ii) may register and enforce a restraining order that has been issued by a court of competent jurisdiction in the foreign country and certified by the Attorney General pursuant to subsection (b)(2).

`(C) LIMIT ON GROUNDS FOR OBJECTION- No person may object to a restraining order under subparagraph (A) on any ground that is the subject of parallel litigation involving the same property that is pending in a foreign court.';

(2) in subsection (b)(1)(C), by striking `establishing that the defendant received notice of the proceedings in sufficient time to enable the defendant' and inserting `establishing that the foreign nation took steps, in accordance with the principles of due process, to give notice of the proceedings to all persons with an interest in the property in sufficient time to enable such persons';

(3) in subsection (d)(1)(D), by striking `the defendant in the proceedings in the foreign court did not receive notice' and inserting `the foreign nation did not take steps, in accordance with the principles of due process, to give notice of the proceedings to a person with an interest in the property'; and

(4) in subsection (a)(2)(A), by inserting `, any violation of foreign law that would constitute a violation or an offense for which property could be forfeited under Federal law if the offense were committed in the United States' after `United Nations Convention'.

SEC. 324. REPORT AND RECOMMENDATION.

Not later than 30 months after the date of enactment of this Act, the Secretary, in consultation with the Attorney General, the Federal banking agencies (as defined at section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, the Securities and Exchange Commission, and such other agencies as the Secretary may determine, at the discretion of the Secretary, shall evaluate the operations of the provisions of this subtitle and make recommendations to Congress as to any legislative action with respect to this subtitle as the Secretary may determine to be necessary or advisable.

SEC. 325. CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.

Section 5318(h) of title 31, United States Code, as amended by section 202 of this title, is amended by adding at the end the following:

`(3) CONCENTRATION ACCOUNTS- The Secretary may prescribe regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum--

`(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

`(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution;
and

`(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.'.

SEC. 326. VERIFICATION OF IDENTIFICATION.

(a) IN GENERAL- Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:

“(l) IDENTIFICATION AND VERIFICATION OF ACCOUNTHOLDERS-

“(1) IN GENERAL- Subject to the requirements of this subsection, the Secretary of the Treasury shall prescribe regulations setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution.

“(2) MINIMUM REQUIREMENTS- The regulations shall, at a minimum, require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures for--

“(A) verifying the identity of any person seeking to open an account to the extent reasonable and practicable;

“(B) maintaining records of the information used to verify a person's identity, including name, address, and other identifying information; and

“(C) consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list.

“(3) FACTORS TO BE CONSIDERED- In prescribing regulations under this subsection, the Secretary shall take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.

“(4) CERTAIN FINANCIAL INSTITUTIONS- In the case of any financial institution the business of which is engaging in financial activities described in section 4(k) of the Bank Holding Company Act of 1956 (including financial activities subject to the jurisdiction of the Commodity Futures Trading Commission), the regulations prescribed by the Secretary under paragraph (1) shall be prescribed jointly

with each Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act, including the Commodity Futures Trading Commission) appropriate for such financial institution.

`(5) EXEMPTIONS- The Secretary (and, in the case of any financial institution described in paragraph (4), any Federal agency described in such paragraph) may, by regulation or order, exempt any financial institution or type of account from the requirements of any regulation prescribed under this subsection in accordance with such standards and procedures as the Secretary may prescribe.

`(6) EFFECTIVE DATE- Final regulations prescribed under this subsection shall take effect before the end of the 1-year period beginning on the date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.'.

(b) STUDY AND REPORT REQUIRED- Within 6 months after the date of enactment of this Act, the Secretary, in consultation with the Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act) and other appropriate Government agencies, shall submit a report to the Congress containing recommendations for--

(1) determining the most timely and effective way to require foreign nationals to provide domestic financial institutions and agencies with appropriate and accurate information, comparable to that which is required of United States nationals, concerning the identity, address, and other related information about such foreign nationals necessary to enable such institutions and agencies to comply with the requirements of this section;

(2) requiring foreign nationals to apply for and obtain, before opening an account with a domestic financial institution, an identification number which would function similarly to a Social Security number or tax identification number; and

(3) establishing a system for domestic financial institutions and agencies to review information maintained by relevant Government agencies for purposes of verifying the identities of foreign nationals seeking to open accounts at those institutions and agencies.

SEC. 327. CONSIDERATION OF ANTI-MONEY LAUNDERING RECORD.

(a) BANK HOLDING COMPANY ACT OF 1956-

(1) IN GENERAL- Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following new paragraph:

“(6) MONEY LAUNDERING- In every case, the Board shall take into consideration the effectiveness of the company or companies in combatting money laundering activities, including in overseas branches.”.

(2) SCOPE OF APPLICATION- The amendment made by paragraph (1) shall apply with respect to any application submitted to the Board of Governors of the Federal Reserve System under section 3 of the Bank Holding Company Act of 1956 after December 31, 2001, which has not been approved by the Board before the date of enactment of this Act.

(b) MERGERS SUBJECT TO REVIEW UNDER FEDERAL DEPOSIT INSURANCE ACT-

(1) IN GENERAL- Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended--

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10), the following new paragraph:

“(11) MONEY LAUNDERING- In every case, the responsible agency, shall take into consideration the effectiveness of any insured depository institution involved in the proposed merger transaction in combatting money laundering activities, including in overseas branches.”.

(2) SCOPE OF APPLICATION- The amendment made by paragraph (1) shall apply with respect to any application submitted to the responsible agency under section 18(c) of the Federal Deposit Insurance Act after December 31, 2001, which has not been approved by all appropriate responsible agencies before the date of enactment of this Act.

SEC. 328. INTERNATIONAL COOPERATION ON IDENTIFICATION OF ORIGINATORS OF WIRE TRANSFERS.

The Secretary shall--

(1) in consultation with the Attorney General and the Secretary of State, take all reasonable steps to encourage foreign governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States and other countries, with the information to remain with the transfer from its origination until the point of disbursement; and

(2) report annually to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on--

(A) progress toward the goal enumerated in paragraph (1), as well as impediments to implementation and an estimated compliance rate; and

(B) impediments to instituting a regime in which all appropriate identification, as defined by the Secretary, about wire transfer recipients shall be included with wire transfers from their point of origination until disbursement.

SEC. 329. CRIMINAL PENALTIES.

Any person who is an official or employee of any department, agency, bureau, office, commission, or other entity of the Federal Government, and any other person who is acting for or on behalf of any such entity, who, directly or indirectly, in connection with the administration of this title, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for--

(1) being influenced in the performance of any official act;

(2) being influenced to commit or aid in the committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) being induced to do or omit to do any act in violation of the official duty of such official or person,

shall be fined in an amount not more than 3 times the monetary equivalent of the thing of value, or imprisoned for not more than 15 years, or both. A violation of this section shall be subject to chapter 227 of title 18, United States Code, and the provisions of the United States Sentencing Guidelines.

SEC. 330. INTERNATIONAL COOPERATION IN INVESTIGATIONS OF MONEY LAUNDERING, FINANCIAL CRIMES, AND THE FINANCES OF TERRORIST GROUPS.

(a) **NEGOTIATIONS-** It is the sense of the Congress that the President should direct the Secretary of State, the Attorney General, or the Secretary of the Treasury, as appropriate, and in consultation with the Board of Governors of the Federal Reserve System, to seek to enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business with United States financial institutions or which may be utilized by any foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act), any person who is a member or representative of any such organization, or any person engaged in money laundering or financial or other crimes.

(b) **PURPOSES OF NEGOTIATIONS-** It is the sense of the Congress that, in carrying out any negotiations described in paragraph (1), the President should direct the Secretary of State, the Attorney General, or the Secretary of the Treasury, as appropriate, to seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, mutual legal assistance treaties, and international agreements to--

(1) ensure that foreign banks and other financial institutions maintain adequate records of transaction and account information relating to any foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act), any person who is a member or representative of any such organization, or any person engaged in money laundering or financial or other crimes; and

(2) establish a mechanism whereby such records may be made available to United States law enforcement officials and domestic financial institution supervisors, when appropriate.

Subtitle B--Bank Secrecy Act Amendments and Related Improvements

SEC. 351. AMENDMENTS RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.

(a) **AMENDMENT RELATING TO CIVIL LIABILITY IMMUNITY FOR DISCLOSURES-** Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:

“(3) **LIABILITY FOR DISCLOSURES-**

“(A) **IN GENERAL-** Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure

pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

`(B) RULE OF CONSTRUCTION- Subparagraph (A) shall not be construed as creating-

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`(i) any inference that the term `person', as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

`(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.'.

(b) PROHIBITION ON NOTIFICATION OF DISCLOSURES- Section 5318(g)(2) of title 31, United States Code, is amended to read as follows:

`(2) NOTIFICATION PROHIBITED-

`(A) IN GENERAL- If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency--

`(i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and

`(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

`(B) DISCLOSURES IN CERTAIN EMPLOYMENT REFERENCES-

`(i) RULE OF CONSTRUCTION- Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies--

`(I) in a written employment reference that is provided in accordance with section 18(w) of the Federal Deposit Insurance Act in response to a request from another financial institution; or

`(II) in a written termination notice or employment reference that is provided in accordance with the rules of a self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission,

except that such written reference or notice may not disclose that such information was also included in any such report, or that such report was made.

`(ii) INFORMATION NOT REQUIRED- Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).'

SEC. 352. ANTI-MONEY LAUNDERING PROGRAMS.

(a) IN GENERAL- Section 5318(h) of title 31, United States Code, is amended to read as follows:

“(h) ANTI-MONEY LAUNDERING PROGRAMS-

“(1) IN GENERAL- In order to guard against money laundering through financial institutions, each financial institution shall establish anti-money laundering programs, including, at a minimum--

“(A) the development of internal policies, procedures, and controls;

“(B) the designation of a compliance officer;

“(C) an ongoing employee training program; and

“(D) an independent audit function to test programs.

“(2) REGULATIONS- The Secretary of the Treasury, after consultation with the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act), may prescribe minimum standards for programs established under paragraph (1), and may exempt from the application of those standards any financial institution that is not subject to the provisions of the rules contained in part 103 of title 31, of the Code of Federal Regulations, or any successor rule thereto, for so long as such financial institution is not subject to the provisions of such rules.’.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of enactment of this Act.

(c) DATE OF APPLICATION OF REGULATIONS; FACTORS TO BE TAKEN INTO ACCOUNT- Before the end of the 180-day period beginning on the date of enactment of this Act, the Secretary shall prescribe regulations that consider the extent to which the requirements imposed under this section are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.

SEC. 353. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS, AND LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS.

(a) CIVIL PENALTY FOR VIOLATION OF TARGETING ORDER- Section 5321(a)(1) of title 31, United States Code, is amended--

(1) by inserting 'or order issued' after 'subchapter or a regulation prescribed'; and

(2) by inserting ', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,' after 'sections 5314 and 5315)'.

(b) CRIMINAL PENALTIES FOR VIOLATION OF TARGETING ORDER- Section 5322 of title 31, United States Code, is amended--

(1) in subsection (a)--

(A) by inserting 'or order issued' after 'willfully violating this subchapter or a regulation prescribed'; and

(B) by inserting ', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,' after 'under section 5315 or 5324)'; and

(2) in subsection (b)--

(A) by inserting 'or order issued' after 'willfully violating this subchapter or a regulation prescribed'; and

(B) by inserting 'or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,' after 'under section 5315 or 5324)',.

(c) STRUCTURING TRANSACTIONS TO EVADE TARGETING ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS- Section 5324(a) of title 31, United States Code, is amended--

(1) by inserting a comma after `shall';

(2) by striking `section--' and inserting `section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508--';

(3) in paragraph (1), by inserting `, to file a report or to maintain a record required by an order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508' after `regulation prescribed under any such section'; and

(4) in paragraph (2), by inserting `, to file a report or to maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,' after `regulation prescribed under any such section'.

(d) LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS- Section 5326(d) of title 31, United States Code, is amended by striking `more than 60' and inserting `more than 180'.

SEC. 354. ANTI-MONEY LAUNDERING STRATEGY.

Section 5341(b) of title 31, United States Code, is amended by adding at the end the following:

`(12) DATA REGARDING FUNDING OF TERRORISM- Data concerning money laundering efforts related to the funding of acts of international terrorism, and efforts directed at the prevention, detection, and prosecution of such funding.'.

SEC. 355. AUTHORIZATION TO INCLUDE SUSPICIONS OF ILLEGAL ACTIVITY IN WRITTEN EMPLOYMENT REFERENCES.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

`(w) WRITTEN EMPLOYMENT REFERENCES MAY CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIVITY-

`(1) AUTHORITY TO DISCLOSE INFORMATION- Notwithstanding any other provision of law, any insured depository institution, and any director, officer, employee, or agent of such institution, may disclose in any written employment reference relating to a current or former institution-affiliated party of such institution which is provided to another insured depository institution in response to a request from such other institution, information concerning the possible involvement of such institution-affiliated party in potentially unlawful activity.

`(2) INFORMATION NOT REQUIRED- Nothing in paragraph (1) shall be construed, by itself, to create any affirmative duty to include any information described in paragraph (1) in any employment reference referred to in paragraph (1).

`(3) MALICIOUS INTENT- Notwithstanding any other provision of this subsection, voluntary disclosure made by an insured depository institution, and any director, officer, employee, or agent of such institution under this subsection concerning potentially unlawful activity that is made with malicious intent, shall not be shielded from liability from the person identified in the disclosure.

`(4) DEFINITION- For purposes of this subsection, the term 'insured depository institution' includes any uninsured branch or agency of a foreign bank.'

SEC. 356. REPORTING OF SUSPICIOUS ACTIVITIES BY SECURITIES BROKERS AND DEALERS; INVESTMENT COMPANY STUDY.

(a) DEADLINE FOR SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR REGISTERED BROKERS AND DEALERS- The Secretary, after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall publish proposed regulations in the Federal Register before January 1, 2002, requiring brokers and dealers registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 to submit suspicious activity reports under section 5318(g) of title 31, United States Code. Such regulations shall be published in final form not later than July 1, 2002.

(b) SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS, COMMODITY TRADING ADVISORS, AND COMMODITY POOL OPERATORS- The Secretary, in consultation with the Commodity Futures Trading Commission, may prescribe regulations requiring futures commission merchants, commodity trading advisors, and commodity pool operators registered under the Commodity Exchange Act to submit suspicious activity reports under section 5318(g) of title 31, United States Code.

(c) REPORT ON INVESTMENT COMPANIES-

(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission shall jointly submit a report to the Congress on recommendations for effective regulations to apply the requirements of subchapter II of chapter 53 of title 31, United States Code, to investment companies pursuant to section 5312(a)(2)(I) of title 31, United States Code.

(2) DEFINITION- For purposes of this subsection, the term `investment company'--

(A) has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); and

(B) includes any person that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)), would be an investment company.

(3) ADDITIONAL RECOMMENDATIONS- The report required by paragraph (1) may make different recommendations for different types of entities covered by this subsection.

(4) BENEFICIAL OWNERSHIP OF PERSONAL HOLDING COMPANIES- The report described in paragraph (1) shall also include recommendations as to whether the Secretary should promulgate regulations to treat any corporation or business or other grantor trust whose assets are predominantly securities, bank certificates of deposit, or other securities or investment instruments (other than such as relate to operating subsidiaries of such corporation or trust) and that has 5 or fewer common shareholders or holders of beneficial or other equity interest, as a financial institution within the meaning of that phrase in section 5312(a)(2)(I) and whether to require such corporations or trusts to disclose their

beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.

SEC. 357. SPECIAL REPORT ON ADMINISTRATION OF BANK SECRECY PROVISIONS.

(a) REPORT REQUIRED- Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress relating to the role of the Internal Revenue Service in the administration of subchapter II of chapter 53 of title 31, United States Code (commonly known as the `Bank Secrecy Act').

(b) CONTENTS- The report required by subsection (a)--

(1) shall specifically address, and contain recommendations concerning--

(A) whether it is advisable to shift the processing of information reporting to the Department of the Treasury under the Bank Secrecy Act provisions to facilities other than those managed by the Internal Revenue Service; and

(B) whether it remains reasonable and efficient, in light of the objective of both anti-money-laundering programs and Federal tax administration, for the Internal Revenue Service to retain authority and responsibility for audit and examination of the compliance of money services businesses and gaming institutions with those Bank Secrecy Act provisions; and

(2) shall, if the Secretary determines that the information processing responsibility or the audit and examination responsibility of the Internal Revenue Service, or both, with respect to those Bank Secrecy Act provisions should be transferred to other agencies, include the specific recommendations of the Secretary regarding the agency or agencies to which any such function should be transferred, complete with a budgetary and resources plan for expeditiously accomplishing the transfer.

SEC. 358. BANK SECRECY PROVISIONS AND ACTIVITIES OF UNITED STATES INTELLIGENCE AGENCIES TO FIGHT INTERNATIONAL TERRORISM.

(a) AMENDMENT RELATING TO THE PURPOSES OF CHAPTER 53 OF TITLE 31, UNITED STATES CODE- Section 5311 of title 31, United States Code, is amended by inserting before the period at the end the following: `, or in

the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism'.

(b) AMENDMENT RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES- Section 5318(g)(4)(B) of title 31, United States Code, is amended by striking 'or supervisory agency' and inserting ', supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism'.

(c) AMENDMENT RELATING TO AVAILABILITY OF REPORTS- Section 5319 of title 31, United States Code, is amended to read as follows:

'Sec. 5319. Availability of reports

'The Secretary of the Treasury shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency, United States intelligence agency or self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, upon request of the head of the agency or organization. The report shall be available for a purpose that is consistent with this subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from disclosure under section 552 of title 5.'

(d) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT PROVISIONS- Section 21(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)) is amended to read as follows:

'(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE-

'(1) FINDINGS- Congress finds that--

'(A) adequate records maintained by insured depository institutions have a high degree of usefulness in criminal, tax, and regulatory investigations or proceedings, and that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against domestic and international terrorism; and

`(B) microfilm or other reproductions and other records made by insured depository institutions of checks, as well as records kept by such institutions, of the identity of persons maintaining or authorized to act with respect to accounts therein, have been of particular value in proceedings described in subparagraph (A).

`(2) PURPOSE- It is the purpose of this section to require the maintenance of appropriate types of records by insured depository institutions in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, recognizes that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'.

(e) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT- Section 123(a) of Public Law 91-508 (12 U.S.C. 1953(a)) is amended to read as follows:

`(a) REGULATIONS- If the Secretary determines that the maintenance of appropriate records and procedures by any uninsured bank or uninsured institution, or any person engaging in the business of carrying on in the United States any of the functions referred to in subsection (b), has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, and that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism, he may by regulation require such bank, institution, or person.'.

(f) AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT- The Right to Financial Privacy Act of 1978 is amended--

(1) in section 1112(a) (12 U.S.C. 3412(a)), by inserting `, or intelligence or counterintelligence activity, investigation or analysis related to international terrorism' after `legitimate law enforcement inquiry';

(2) in section 1114(a)(1) (12 U.S.C. 3414(a)(1))--

(A) in subparagraph (A), by striking `or' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting `, or'; and

(C) by adding at the end the following:

`(C) a Government authority authorized to conduct investigations of, or intelligence or counterintelligence analyses related to, international terrorism for the purpose of conducting such investigations or analyses.'; and

(3) in section 1120(a)(2) (12 U.S.C. 3420(a)(2)), by inserting `, or for a purpose authorized by section 1112(a)' before the semicolon at the end.

(g) AMENDMENT TO THE FAIR CREDIT REPORTING ACT-

(1) IN GENERAL- The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended--

(A) by redesignating the second of the 2 sections designated as section 624 (15 U.S.C. 1681u) (relating to disclosure to FBI for counterintelligence purposes) as section 625; and

(B) by adding at the end the following new section:

`Sec. 626. Disclosures to governmental agencies for counterterrorism purposes

`(a) DISCLOSURE- Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct or such investigation, activity or analysis.

`(b) FORM OF CERTIFICATION- The certification described in subsection (a) shall be signed by a supervisory official designated by the head of a Federal agency or an officer of a Federal agency whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate.

`(c) CONFIDENTIALITY- No consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person, or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

`(d) RULE OF CONSTRUCTION- Nothing in section 625 shall be construed to limit the authority of the Director of the Federal Bureau of Investigation under this section.

`(e) SAFE HARBOR- Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or other information pursuant to this section in good-faith reliance upon a certification of a governmental agency pursuant to the provisions of this section shall not be liable to any person for such disclosure under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.'

(2) CLERICAL AMENDMENTS- The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended--

(A) by redesignating the second of the 2 items designated as section 624 as section 625; and

(B) by inserting after the item relating to section 625 (as so redesignated) the following new item:

`626. Disclosures to governmental agencies for counterterrorism purposes.'

(h) APPLICATION OF AMENDMENTS- The amendments made by this section shall apply with respect to reports filed or records maintained on, before, or after the date of enactment of this Act.

SEC. 359. REPORTING OF SUSPICIOUS ACTIVITIES BY UNDERGROUND BANKING SYSTEMS.

(a) DEFINITION FOR SUBCHAPTER- Section 5312(a)(2)(R) of title 31, United States Code, is amended to read as follows:

`(R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;'

(b) MONEY TRANSMITTING BUSINESS- Section 5330(d)(1)(A) of title 31, United States Code, is amended by inserting before the semicolon the following: `or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;`.

(c) APPLICABILITY OF RULES- Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:

`(l) APPLICABILITY OF RULES- Any rules promulgated pursuant to the authority contained in section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) shall apply, in addition to any other financial institution to which such rules apply, to any person that engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.`.

(d) REPORT- Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall report to Congress on the need for any additional legislation relating to persons who engage as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system, counter money laundering and regulatory controls relating to underground money movement and banking systems, including whether the threshold for the filing of suspicious activity reports under section 5318(g) of title 31, United States Code should be lowered in the case of such systems.

SEC. 360. USE OF AUTHORITY OF UNITED STATES EXECUTIVE DIRECTORS.

(a) ACTION BY THE PRESIDENT- If the President determines that a particular foreign country has taken or has committed to take actions that contribute to efforts of the United States to respond to, deter, or prevent acts of international terrorism, the Secretary may, consistent with other applicable provisions of law, instruct the United States Executive Director of each international financial institution to use the voice and vote of the Executive Director to support any loan or other utilization of the funds of respective institutions for such country, or any public or private entity within such country.

(b) USE OF VOICE AND VOTE- The Secretary may instruct the United States Executive Director of each international financial institution to aggressively use the voice and vote of the Executive Director to require an auditing of disbursements at such institutions to ensure that no funds are paid to persons who commit, threaten to commit, or support terrorism.

(c) DEFINITION- For purposes of this section, the term 'international financial institution' means an institution described in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

SEC. 361. FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) IN GENERAL- Subchapter I of chapter 3 of title 31, United States Code, is amended--

(1) by redesignating section 310 as section 311; and

(2) by inserting after section 309 the following new section:

'Sec. 310. Financial Crimes Enforcement Network

'(a) IN GENERAL- The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury (Treasury Order Numbered 105-08, in this section referred to as 'FinCEN') on April 25, 1990, shall be a bureau in the Department of the Treasury.

'(b) DIRECTOR-

'(1) APPOINTMENT- The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

'(2) DUTIES AND POWERS- The duties and powers of the Director are as follows:

'(A) Advise and make recommendations on matters relating to financial intelligence, financial criminal activities, and other financial activities to the Under Secretary of the Treasury for Enforcement.

'(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

'(i) Information collected by the Department of the Treasury, including report information filed under subchapter II of chapter 53 of this title (such as reports on cash transactions, foreign financial agency transactions and

relationships, foreign currency transactions, exporting and importing monetary instruments, and suspicious activities), chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act.

`(ii) Information regarding national and international currency flows.

`(iii) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases.

`(iv) Other privately and publicly available information.

`(C) Analyze and disseminate the available data in accordance with applicable legal requirements and policies and guidelines established by the Secretary of the Treasury and the Under Secretary of the Treasury for Enforcement to--

`(i) identify possible criminal activity to appropriate Federal, State, local, and foreign law enforcement agencies;

`(ii) support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

`(iii) identify possible instances of noncompliance with subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act to Federal agencies with statutory responsibility for enforcing compliance with such provisions and other appropriate Federal regulatory agencies;

`(iv) evaluate and recommend possible uses of special currency reporting requirements under section 5326;

`(v) determine emerging trends and methods in money laundering and other financial crimes;

`(vi) support the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism; and

`(vii) support government initiatives against money laundering.

`(D) Establish and maintain a financial crimes communications center to furnish law enforcement authorities with intelligence information related to emerging or ongoing investigations and undercover operations.

`(E) Furnish research, analytical, and informational services to financial institutions, appropriate Federal regulatory agencies with regard to financial institutions, and appropriate Federal, State, local, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Secretary of the Treasury or the Under Secretary of the Treasury for Enforcement, in the interest of detection, prevention, and prosecution of terrorism, organized crime, money laundering, and other financial crimes.

`(F) Assist Federal, State, local, and foreign law enforcement and regulatory authorities in combatting the use of informal, nonbank networks and payment and barter system mechanisms that permit the transfer of funds or the equivalent of funds without records and without compliance with criminal and tax laws.

`(G) Provide computer and data support and data analysis to the Secretary of the Treasury for tracking and controlling foreign assets.

`(H) Coordinate with financial intelligence units in other countries on anti-terrorism and anti-money laundering initiatives, and similar efforts.

`(I) Administer the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.

`(J) Such other duties and powers as the Secretary of the Treasury may delegate or prescribe.

`(c) REQUIREMENTS RELATING TO MAINTENANCE AND USE OF DATA BANKS- The Secretary of the Treasury shall establish and maintain operating procedures with respect to the government-wide data access service and the financial crimes communications center maintained by FinCEN which provide--

`(1) for the coordinated and efficient transmittal of information to, entry of information into, and withdrawal of information from, the data maintenance system maintained by the Network, including--

`(A) the submission of reports through the Internet or other secure network, whenever possible;

`(B) the cataloguing of information in a manner that facilitates rapid retrieval by law enforcement personnel of meaningful data; and

`(C) a procedure that provides for a prompt initial review of suspicious activity reports and other reports, or such other means as the Secretary may provide, to identify information that warrants immediate action; and

`(2) in accordance with section 552a of title 5 and the Right to Financial Privacy Act of 1978, appropriate standards and guidelines for determining--

`(A) who is to be given access to the information maintained by the Network;

`(B) what limits are to be imposed on the use of such information; and

`(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the data maintenance system.

`(d) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated for FinCEN such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005.'.

(b) COMPLIANCE WITH REPORTING REQUIREMENTS- The Secretary of the Treasury shall study methods for improving compliance with the reporting requirements established in section 5314 of title 31, United States Code, and shall submit a report on such study to the Congress by the end of the 6-month period beginning on the date of enactment of this Act and each 1-year period thereafter. The initial report shall include historical data on compliance with such reporting requirements.

(c) CLERICAL AMENDMENT- The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended--

(1) by redesignating the item relating to section 310 as section 311; and

(2) by inserting after the item relating to section 309 the following new item:

`310. Financial Crimes Enforcement Network.'.

SEC. 362. ESTABLISHMENT OF HIGHLY SECURE NETWORK.

(a) IN GENERAL- The Secretary shall establish a highly secure network in the Financial Crimes Enforcement Network that--

(1) allows financial institutions to file reports required under subchapter II or III of chapter 53 of title 31, United States Code, chapter 2 of Public Law 91-508, or section 21 of the Federal Deposit Insurance Act through the secure network; and

(2) provides financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny.

(b) EXPEDITED DEVELOPMENT- The Secretary shall take such action as may be necessary to ensure that the secure network required under subsection (a) is fully operational before the end of the 9-month period beginning on the date of enactment of this Act.

SEC. 363. INCREASE IN CIVIL AND CRIMINAL PENALTIES FOR MONEY LAUNDERING.

(a) CIVIL PENALTIES- Section 5321(a) of title 31, United States Code, is amended by adding at the end the following:

`(7) PENALTIES FOR INTERNATIONAL COUNTER MONEY LAUNDERING VIOLATIONS- The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.'.

(b) CRIMINAL PENALTIES- Section 5322 of title 31, United States Code, is amended by adding at the end the following:

`(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000.'.

SEC. 364. UNIFORM PROTECTION AUTHORITY FOR FEDERAL RESERVE FACILITIES.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following:

`(q) UNIFORM PROTECTION AUTHORITY FOR FEDERAL RESERVE FACILITIES-

`(1) Notwithstanding any other provision of law, to authorize personnel to act as law enforcement officers to protect and safeguard the premises, grounds, property, personnel, including members of the Board, of the Board, or any Federal reserve bank, and operations conducted by or on behalf of the Board or a reserve bank.

`(2) The Board may, subject to the regulations prescribed under paragraph (5), delegate authority to a Federal reserve bank to authorize personnel to act as law enforcement officers to protect and safeguard the bank's premises, grounds, property, personnel, and operations conducted by or on behalf of the bank.

`(3) Law enforcement officers designated or authorized by the Board or a reserve bank under paragraph (1) or (2) are authorized while on duty to carry firearms and make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States committed or being committed within the buildings and grounds of the Board or a reserve bank if they have reasonable grounds to believe that the person to be arrested has committed

or is committing such a felony. Such officers shall have access to law enforcement information that may be necessary for the protection of the property or personnel of the Board or a reserve bank.

`(4) For purposes of this subsection, the term 'law enforcement officers' means personnel who have successfully completed law enforcement training and are authorized to carry firearms and make arrests pursuant to this subsection.

`(5) The law enforcement authorities provided for in this subsection may be exercised only pursuant to regulations prescribed by the Board and approved by the Attorney General.'

SEC. 365. REPORTS RELATING TO COINS AND CURRENCY RECEIVED IN NONFINANCIAL TRADE OR BUSINESS.

(a) REPORTS REQUIRED- Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

`Sec. 5331. Reports relating to coins and currency received in nonfinancial trade or business

`(a) COIN AND CURRENCY RECEIPTS OF MORE THAN \$10,000- Any person--

`(1) who is engaged in a trade or business; and

`(2) who, in the course of such trade or business, receives more than \$10,000 in coins or currency in 1 transaction (or 2 or more related transactions),

shall file a report described in subsection (b) with respect to such transaction (or related transactions) with the Financial Crimes Enforcement Network at such time and in such manner as the Secretary may, by regulation, prescribe. `(b) FORM AND MANNER OF REPORTS- A report is described in this subsection if such report--

`(1) is in such form as the Secretary may prescribe;

`(2) contains--

`(A) the name and address, and such other identification information as the Secretary may require, of the person from whom the coins or currency was received;

`(B) the amount of coins or currency received;

`(C) the date and nature of the transaction; and

`(D) such other information, including the identification of the person filing the report, as the Secretary may prescribe.

`(c) EXCEPTIONS-

`(1) AMOUNTS RECEIVED BY FINANCIAL INSTITUTIONS- Subsection (a) shall not apply to amounts received in a transaction reported under section 5313 and regulations prescribed under such section.

`(2) TRANSACTIONS OCCURRING OUTSIDE THE UNITED STATES- Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall not apply to any transaction if the entire transaction occurs outside the United States.

`(d) CURRENCY INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS-

`(1) IN GENERAL- For purposes of this section, the term 'currency' includes--

`(A) foreign currency; and

`(B) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than \$10,000.

`(2) SCOPE OF APPLICATION- Paragraph (1)(B) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), or (S) of section 5312(a)(2).'

(b) PROHIBITION ON STRUCTURING TRANSACTIONS-

(1) IN GENERAL- Section 5324 of title 31, United States Code, is amended--

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following new subsection:

`(b) DOMESTIC COIN AND CURRENCY TRANSACTIONS INVOLVING NONFINANCIAL TRADES OR BUSINESSES- No person shall, for the purpose of evading the report requirements of section 5333 or any regulation prescribed under such section--

`(1) cause or attempt to cause a nonfinancial trade or business to fail to file a report required under section 5333 or any regulation prescribed under such section;

`(2) cause or attempt to cause a nonfinancial trade or business to file a report required under section 5333 or any regulation prescribed under such section that contains a material omission or misstatement of fact; or

`(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with 1 or more nonfinancial trades or businesses.'.

(2) TECHNICAL AND CONFORMING AMENDMENTS-

(A) The heading for subsection (a) of section 5324 of title 31, United States Code, is amended by inserting 'INVOLVING FINANCIAL INSTITUTIONS' after 'TRANSACTIONS'.

(B) Section 5317(c) of title 31, United States Code, is amended by striking '5324(b)' and inserting '5324(c)'.

(c) DEFINITION OF NONFINANCIAL TRADE OR BUSINESS-

(1) IN GENERAL- Section 5312(a) of title 31, United States Code, is amended--

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

`(4) NONFINANCIAL TRADE OR BUSINESS- The term `nonfinancial trade or business' means any trade or business other than a financial institution that is subject to the reporting requirements of section 5313 and regulations prescribed under such section.'.

(2) TECHNICAL AND CONFORMING AMENDMENTS-

(A) Section 5312(a)(3)(C) of title 31, United States Code, is amended by striking `section 5316,' and inserting `sections 5333 and 5316,'.

(B) Subsections (a) through (f) of section 5318 of title 31, United States Code, and sections 5321, 5326, and 5328 of such title are each amended--

(i) by inserting `or nonfinancial trade or business' after `financial institution' each place such term appears; and

(ii) by inserting `or nonfinancial trades or businesses' after `financial institutions' each place such term appears.

(c) CLERICAL AMENDMENT- The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5332 (as added by section 112 of this title) the following new item:

`5331. Reports relating to coins and currency received in nonfinancial trade or business.'.

(f) REGULATIONS- Regulations which the Secretary determines are necessary to implement this section shall be published in final form before the end of the 6-month period beginning on the date of enactment of this Act.

SEC. 366. EFFICIENT USE OF CURRENCY TRANSACTION REPORT SYSTEM.

(a) FINDINGS- The Congress finds the following:

(1) The Congress established the currency transaction reporting requirements in 1970 because the Congress found then that such reports have a high degree of usefulness in criminal, tax, and regulatory

investigations and proceedings and the usefulness of such reports has only increased in the years since the requirements were established.

(2) In 1994, in response to reports and testimony that excess amounts of currency transaction reports were interfering with effective law enforcement, the Congress reformed the currency transaction report exemption requirements to provide--

(A) mandatory exemptions for certain reports that had little usefulness for law enforcement, such as cash transfers between depository institutions and cash deposits from government agencies; and

(B) discretionary authority for the Secretary of the Treasury to provide exemptions, subject to criteria and guidelines established by the Secretary, for financial institutions with regard to regular business customers that maintain accounts at an institution into which frequent cash deposits are made.

(3) Today there is evidence that some financial institutions are not utilizing the exemption system, or are filing reports even if there is an exemption in effect, with the result that the volume of currency transaction reports is once again interfering with effective law enforcement.

(b) STUDY AND REPORT-

(1) STUDY REQUIRED- The Secretary shall conduct a study of--

(A) the possible expansion of the statutory exemption system in effect under section 5313 of title 31, United States Code; and

(B) methods for improving financial institution utilization of the statutory exemption provisions as a way of reducing the submission of currency transaction reports that have little or no value for law enforcement purposes, including improvements in the systems in effect at financial institutions for regular review of the exemption procedures used at the institution and the training of personnel in its effective use.

(2) **REPORT REQUIRED-** The Secretary of the Treasury shall submit a report to the Congress before the end of the 1-year period beginning on the date of enactment of this Act containing the findings and conclusions of the Secretary with regard to the study required under subsection (a), and such recommendations for legislative or administrative action as the Secretary determines to be appropriate.

Subtitle C--Currency Crimes and Protection

SEC. 371. BULK CASH SMUGGLING INTO OR OUT OF THE UNITED STATES.

(a) **FINDINGS-** The Congress finds the following:

- (1) Effective enforcement of the currency reporting requirements of subchapter II of chapter 53 of title 31, United States Code, and the regulations prescribed under such subchapter, has forced drug dealers and other criminals engaged in cash-based businesses to avoid using traditional financial institutions.
- (2) In their effort to avoid using traditional financial institutions, drug dealers and other criminals are forced to move large quantities of currency in bulk form to and through the airports, border crossings, and other ports of entry where the currency can be smuggled out of the United States and placed in a foreign financial institution or sold on the black market.
- (3) The transportation and smuggling of cash in bulk form may now be the most common form of money laundering, and the movement of large sums of cash is one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion and similar crimes.
- (4) The intentional transportation into or out of the United States of large amounts of currency or monetary instruments, in a manner designed to circumvent the mandatory reporting provisions of subchapter II of chapter 53 of title 31, United States Code,, is the equivalent of, and creates the same harm as, the smuggling of goods.
- (5) The arrest and prosecution of bulk cash smugglers are important parts of law enforcement's effort to stop the laundering of criminal proceeds, but the couriers who attempt to smuggle the cash out of the United States are typically low-level employees of large criminal organizations, and thus are easily replaced. Accordingly, only the confiscation of the smuggled bulk cash can effectively break the cycle of criminal activity of which the laundering of the bulk cash is a critical part.

(6) The current penalties for violations of the currency reporting requirements are insufficient to provide a deterrent to the laundering of criminal proceeds. In particular, in cases where the only criminal violation under current law is a reporting offense, the law does not adequately provide for the confiscation of smuggled currency. In contrast, if the smuggling of bulk cash were itself an offense, the cash could be confiscated as the corpus delicti of the smuggling offense.

(b) PURPOSES- The purposes of this section are--

- (1) to make the act of smuggling bulk cash itself a criminal offense;
- (2) to authorize forfeiture of any cash or instruments of the smuggling offense; and
- (3) to emphasize the seriousness of the act of bulk cash smuggling.

(c) ENACTMENT OF BULK CASH SMUGGLING OFFENSE- Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

`Sec. 5332. Bulk cash smuggling into or out of the United States

`(a) CRIMINAL OFFENSE-

`(1) IN GENERAL- Whoever, with the intent to evade a currency reporting requirement under section 5316, knowingly conceals more than \$10,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or monetary instruments from a place within the United States to a place outside of the United States, or from a place outside the United States to a place within the United States, shall be guilty of a currency smuggling offense and subject to punishment pursuant to subsection (b).

`(2) CONCEALMENT ON PERSON- For purposes of this section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, backpack, or other container worn or carried by such individual.

`(b) PENALTY-

`(1) TERM OF IMPRISONMENT- A person convicted of a currency smuggling offense under subsection (a), or a conspiracy to commit such offense, shall be imprisoned for not more than 5 years.

`(2) FORFEITURE- In addition, the court, in imposing sentence under paragraph (1), shall order that the defendant forfeit to the United States, any property, real or personal, involved in the offense, and any property traceable to such property, subject to subsection (d) of this section.

`(3) PROCEDURE- The seizure, restraint, and forfeiture of property under this section shall be governed by section 413 of the Controlled Substances Act.

`(4) PERSONAL MONEY JUDGMENT- If the property subject to forfeiture under paragraph (2) is unavailable, and the defendant has insufficient substitute property that may be forfeited pursuant to section 413(p) of the Controlled Substances Act, the court shall enter a personal money judgment against the defendant for the amount that would be subject to forfeiture.

`(c) CIVIL FORFEITURE-

`(1) IN GENERAL- Any property involved in a violation of subsection (a), or a conspiracy to commit such violation, and any property traceable to such violation or conspiracy, may be seized and, subject to subsection (d) of this section, forfeited to the United States.

`(2) PROCEDURE- The seizure and forfeiture shall be governed by the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

`(3) TREATMENT OF CERTAIN PROPERTY AS INVOLVED IN THE OFFENSE- For purposes of this subsection and subsection (b), any currency or other monetary instrument that is concealed or intended to be concealed in violation of subsection (a) or a conspiracy to commit such violation, any article, container, or conveyance used, or intended to be used, to conceal or transport the currency or other monetary instrument, and any other property used, or intended to be used, to facilitate the offense, shall be considered property involved in the offense.'

(c) CLERICAL AMENDMENT- The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5331, as added by this Act, the following new item:

`5332. Bulk cash smuggling into or out of the United States.'.

SEC. 372. FORFEITURE IN CURRENCY REPORTING CASES.

(a) IN GENERAL- Subsection (c) of section 5317 of title 31, United States Code, is amended to read as follows:

`(c) FORFEITURE-

`(1) CRIMINAL FORFEITURE-

`(A) IN GENERAL- The court in imposing sentence for any violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit such violation, shall order the defendant to forfeit all property, real or personal, involved in the offense and any property traceable thereto.

`(B) PROCEDURE- Forfeitures under this paragraph shall be governed by the procedures established in section 413 of the Controlled Substances Act.

`(2) CIVIL FORFEITURE- Any property involved in a violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit any such violation, and any property traceable to any such violation or conspiracy, may be seized and forfeited to the United States in accordance with the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.'.

(b) CONFORMING AMENDMENTS-

(1) Section 981(a)(1)(A) of title 18, United States Code, is amended--

(A) by striking `of section 5313(a) or 5324(a) of title 31, or'; and

(B) by striking `However' and all that follows through the end of the subparagraph.

(2) Section 982(a)(1) of title 18, United States Code, is amended--

(A) by striking `of section 5313(a), 5316, or 5324 of title 31, or'; and

(B) by striking `However' and all that follows through the end of the paragraph.

SEC. 373. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) SCIENTER REQUIREMENT FOR SECTION 1960 VIOLATION- Section 1960 of title 18, United States Code, is amended to read as follows:

`Sec. 1960. Prohibition of unlicensed money transmitting businesses

`(a) Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

`(b) As used in this section--

`(1) the term `unlicensed money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and--

`(A) is operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable;

`(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section; or

`(C) otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to be used to promote or support unlawful activity;

`(2) the term `money transmitting' includes transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

`(3) the term `State' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.'

(b) SEIZURE OF ILLEGALLY TRANSMITTED FUNDS- Section 981(a)(1)(A) of title 18, United States Code, is amended by striking `or 1957' and inserting `, 1957 or 1960'.

(c) CLERICAL AMENDMENT- The table of sections for chapter 95 of title 18, United States Code, is amended in the item relating to section 1960 by striking `illegal' and inserting `unlicensed'.

SEC. 374. COUNTERFEITING DOMESTIC CURRENCY AND OBLIGATIONS.

(a) COUNTERFEIT ACTS COMMITTED OUTSIDE THE UNITED STATES- Section 470 of title 18, United States Code, is amended--

(1) in paragraph (2), by inserting `analog, digital, or electronic image,' after `plate, stone,'; and

(2) by striking `shall be fined under this title, imprisoned not more than 20 years, or both' and inserting `shall be punished as is provided for the like offense within the United States'.

(b) OBLIGATIONS OR SECURITIES OF THE UNITED STATES- Section 471 of title 18, United States Code, is amended by striking `fifteen years' and inserting `20 years'.

(c) UTTERING COUNTERFEIT OBLIGATIONS OR SECURITIES- Section 472 of title 18, United States Code, is amended by striking `fifteen years' and inserting `20 years'.

(d) DEALING IN COUNTERFEIT OBLIGATIONS OR SECURITIES- Section 473 of title 18, United States Code, is amended by striking `ten years' and inserting `20 years'.

(e) PLATES, STONES, OR ANALOG, DIGITAL, OR ELECTRONIC IMAGES FOR COUNTERFEITING OBLIGATIONS OR SECURITIES-

(1) IN GENERAL- Section 474(a) of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

`Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any obligation or other security of the United States; or'.

(2) AMENDMENT TO DEFINITION- Section 474(b) of title 18, United States Code, is amended by striking the first sentence and inserting the following new sentence: `For purposes of this section, the term `analog, digital, or electronic image' includes any analog, digital, or electronic method used for the making, execution, acquisition, scanning, capturing, recording, retrieval, transmission, or reproduction of any obligation or security, unless such use is authorized by the Secretary of the Treasury.'.

(3) TECHNICAL AND CONFORMING AMENDMENT- The heading for section 474 of title 18, United States Code, is amended by striking `**or stones**' and inserting `**, stones, or analog, digital, or electronic images**'.

(4) CLERICAL AMENDMENT- The table of sections for chapter 25 of title 18, United States Code, is amended in the item relating to section 474 by striking `or stones' and inserting `**, stones, or analog, digital, or electronic images**'.

(f) TAKING IMPRESSIONS OF TOOLS USED FOR OBLIGATIONS OR SECURITIES- Section 476 of title 18, United States Code, is amended--

(1) by inserting `analog, digital, or electronic image,' after `impression, stamp,'; and

(2) by striking `ten years' and inserting `25 years'.

(g) POSSESSING OR SELLING IMPRESSIONS OF TOOLS USED FOR OBLIGATIONS OR SECURITIES- Section 477 of title 18, United States Code, is amended--

(1) in the first paragraph, by inserting `analog, digital, or electronic image,' after `imprint, stamp,';

(2) in the second paragraph, by inserting `analog, digital, or electronic image,' after `imprint, stamp,'; and

(3) in the third paragraph, by striking `ten years' and inserting `25 years'.

(h) CONNECTING PARTS OF DIFFERENT NOTES- Section 484 of title 18, United States Code, is amended by striking `five years' and inserting `10 years'.

(i) BONDS AND OBLIGATIONS OF CERTAIN LENDING AGENCIES- The first and second paragraphs of section 493 of title 18, United States Code, are each amended by striking `five years' and inserting `10 years'.

SEC. 375. COUNTERFEITING FOREIGN CURRENCY AND OBLIGATIONS.

(a) FOREIGN OBLIGATIONS OR SECURITIES- Section 478 of title 18, United States Code, is amended by striking `five years' and inserting `20 years'.

(b) UTTERING COUNTERFEIT FOREIGN OBLIGATIONS OR SECURITIES- Section 479 of title 18, United States Code, is amended by striking `three years' and inserting `20 years'.

(c) POSSESSING COUNTERFEIT FOREIGN OBLIGATIONS OR SECURITIES- Section 480 of title 18, United States Code, is amended by striking `one year' and inserting `20 years'.

(d) PLATES, STONES, OR ANALOG, DIGITAL, OR ELECTRONIC IMAGES FOR COUNTERFEITING FOREIGN OBLIGATIONS OR SECURITIES-

(1) IN GENERAL- Section 481 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

`Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any bond, certificate, obligation, or other security of any foreign government, or of any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money; or'.

(2) INCREASED SENTENCE- The last paragraph of section 481 of title 18, United States Code, is amended by striking `five years' and inserting `25 years'.

(3) TECHNICAL AND CONFORMING AMENDMENT- The heading for section 481 of title 18, United States Code, is amended by striking `**or stones**' and inserting `**, stones, or analog, digital, or electronic images**'.

(4) CLERICAL AMENDMENT- The table of sections for chapter 25 of title 18, United States Code, is amended in the item relating to section 481 by striking `**or stones**' and inserting `**, stones, or analog, digital, or electronic images**'.

(e) FOREIGN BANK NOTES- Section 482 of title 18, United States Code, is amended by striking `**two years**' and inserting `**20 years**'.

(f) UTTERING COUNTERFEIT FOREIGN BANK NOTES- Section 483 of title 18, United States Code, is amended by striking `**one year**' and inserting `**20 years**'.

SEC. 376. LAUNDERING THE PROCEEDS OF TERRORISM.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting `**or 2339B**' after `**2339A**'.

SEC. 377. EXTRATERRITORIAL JURISDICTION.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

“(h) Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b) of this section, shall be subject to the fines, penalties, imprisonment, and forfeiture provided in this title if--

“(1) the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

“(2) the person transports, delivers, conveys, transfers to or through, or otherwise stores, secrets, or holds within the jurisdiction of the United States, any article used to assist in the commission of the offense or the proceeds of such offense or property derived therefrom.’.

TITLE IV--PROTECTING THE BORDER

Subtitle A--Protecting the Northern Border

SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE NORTHERN BORDER.

The Attorney General is authorized to waive any FTE cap on personnel assigned to the Immigration and Naturalization Service on the Northern border.

SEC. 402. NORTHERN BORDER PERSONNEL.

There are authorized to be appropriated--

- (1) such sums as may be necessary to triple the number of Border Patrol personnel (from the number authorized under current law), and the necessary personnel and facilities to support such personnel, in each State along the Northern Border;
- (2) such sums as may be necessary to triple the number of Customs Service personnel (from the number authorized under current law), and the necessary personnel and facilities to support such personnel, at ports of entry in each State along the Northern Border;
- (3) such sums as may be necessary to triple the number of INS inspectors (from the number authorized on the date of the enactment of this Act), and the necessary personnel and facilities to support such personnel, at ports of entry in each State along the Northern Border; and
- (4) an additional \$50,000,000 each to the Immigration and Naturalization Service and the United States Customs Service for purposes of making improvements in technology for monitoring the Northern Border and acquiring additional equipment at the Northern Border.

SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND THE INS TO CERTAIN IDENTIFYING INFORMATION IN THE CRIMINAL HISTORY RECORDS OF VISA APPLICANTS AND APPLICANTS FOR ADMISSION TO THE UNITED STATES.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT- Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended--

(1) in the section heading, by inserting `; DATA EXCHANGE' after `SECURITY OFFICERS';

(2) by inserting `(a)' after `SEC. 105.';

(3) in subsection (a), by inserting `and border' after `internal' the second place it appears; and

(4) by adding at the end the following:

`(b)(1) The Attorney General and the Director of the Federal Bureau of Investigation shall provide the Department of State and the Service access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III), Wanted Persons File, and to any other files maintained by the National Crime Information Center that may be mutually agreed upon by the Attorney General and the agency receiving the access, for the purpose of determining whether or not a visa applicant or applicant for admission has a criminal history record indexed in any such file.

`(2) Such access shall be provided by means of extracts of the records for placement in the automated visa lookout or other appropriate database, and shall be provided without any fee or charge.

`(3) The Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon with the agency receiving the access. Upon receipt of such updated extracts, the receiving agency shall make corresponding updates to its database and destroy previously provided extracts.

`(4) Access to an extract does not entitle the Department of State to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Department of State shall submit the applicant's fingerprints and any appropriate fingerprint processing fee authorized by law to the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

`(c) The provision of the extracts described in subsection (b) may be reconsidered by the Attorney General and the receiving agency upon the development and deployment of a more cost-effective and efficient means of sharing the information.

`(d) For purposes of administering this section, the Department of State shall, prior to receiving access to NCIC data but not later than 4 months after the date of enactment of this subsection, promulgate final regulations--

`(1) to implement procedures for the taking of fingerprints; and

`(2) to establish the conditions for the use of the information received from the Federal Bureau of Investigation, in order--

`(A) to limit the redissemination of such information;

`(B) to ensure that such information is used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States;

`(C) to ensure the security, confidentiality, and destruction of such information; and

`(D) to protect any privacy rights of individuals who are subjects of such information.'.

(b) **REPORTING REQUIREMENT-** Not later than 2 years after the date of enactment of this Act, the Attorney General and the Secretary of State jointly shall report to Congress on the implementation of the amendments made by this section.

(c) **TECHNOLOGY STANDARD TO CONFIRM IDENTITY-**

(1) **IN GENERAL-** The Attorney General and the Secretary of State jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies the Attorney General or Secretary of State deems appropriate and in consultation with Congress, shall within 2 years after the date of the enactment of this section, develop and certify a technology standard that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name or such person seeking to enter the United States pursuant to a visa.

(2) **INTEGRATED-** The technology standard developed pursuant to paragraph (1), shall be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully integrated means to share law enforcement and intelligence information necessary to confirm the identity of such persons applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(3) ACCESSIBLE- The electronic system described in paragraph (2), once implemented, shall be readily and easily accessible to--

(A) all consular officers responsible for the issuance of visas;

(B) all Federal inspection agents at all United States border inspection points; and

(C) all law enforcement and intelligence officers as determined by regulation to be responsible for investigation or identification of aliens admitted to the United States pursuant to a visa.

(4) REPORT- Not later than 18 months after the date of the enactment of this Act, and every 2 years thereafter, the Attorney General and the Secretary of State shall jointly, in consultation with the Secretary of Treasury, report to Congress describing the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system described in this subsection.

(5) FUNDING- There is authorized to be appropriated to the Secretary of State, the Attorney General, and the Director of the National Institute of Standards and Technology such sums as may be necessary to carry out the provisions of this subsection.

(d) STATUTORY CONSTRUCTION- Nothing in this section, or in any other law, shall be construed to limit the authority of the Attorney General or the Director of the Federal Bureau of Investigation to provide access to the criminal history record information contained in the National Crime Information Center's (NCIC) Interstate Identification Index (NCIC-III), or to any other information maintained by the NCIC, to any Federal agency or officer authorized to enforce or administer the immigration laws of the United States, for the purpose of such enforcement or administration, upon terms that are consistent with the National Crime Prevention and Privacy Compact Act of 1998 (subtitle A of title II of Public Law 105-251; 42 U.S.C. 14611-16) and section 552a of title 5, United States Code.

SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.

The matter under the headings 'Immigration And Naturalization Service: Salaries and Expenses, Enforcement And Border Affairs' and 'Immigration And Naturalization Service: Salaries and Expenses, Citizenship And Benefits, Immigration And Program Direction' in the Department of Justice Appropriations Act, 2001 (as enacted into law by Appendix B (H.R. 5548) of Public Law 106-553 (114 Stat. 2762A-58 to 2762A-59)) is amended by striking the

following each place it occurs: *`Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of \$30,000 during the calendar year beginning January 1, 2001:'.
'

SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM FOR PORTS OF ENTRY AND OVERSEAS CONSULAR POSTS.

(a) IN GENERAL- The Attorney General, in consultation with the appropriate heads of other Federal agencies, including the Secretary of State, Secretary of the Treasury, and the Secretary of Transportation, shall report to Congress on the feasibility of enhancing the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation and other identification systems in order to better identify a person who holds a foreign passport or a visa and may be wanted in connection with a criminal investigation in the United States or abroad, before the issuance of a visa to that person or the entry or exit from the United States by that person.

(b) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated not less than \$2,000,000 to carry out this section.

Subtitle B--Enhanced Immigration Provisions

SEC. 411. DEFINITIONS RELATING TO TERRORISM.

(a) GROUNDS OF INADMISSIBILITY- Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended--

(1) in subparagraph (B)--

(A) in clause (i)--

(i) by amending subclause (IV) to read as follows:

`(IV) is a representative (as defined in clause (v)) of--

`(aa) a foreign terrorist organization, as designated by the Secretary of State under section 219, or

`(bb) a political, social or other similar group whose public endorsement of acts of terrorist activity the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities,';

(ii) in subclause (V), by inserting `or' after `section 219,'; and

(iii) by adding at the end the following new subclauses:

`(VI) has used the alien's position of prominence within any country to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities, or

`(VII) is the spouse or child of an alien who is inadmissible under this section, if the activity causing the alien to be found inadmissible occurred within the last 5 years,';

(B) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively;

(C) in clause (i)(II), by striking `clause (iii)' and inserting `clause (iv)';

(D) by inserting after clause (i) the following:

`(ii) EXCEPTION- Subclause (VII) of clause (i) does not apply to a spouse or child--

`(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section; or

`(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section.';

(E) in clause (iii) (as redesignated by subparagraph (B))--

(i) by inserting 'it had been' before 'committed in the United States'; and

(ii) in subclause (V)(b), by striking 'or firearm' and inserting ', firearm, or other weapon or dangerous device';

(F) by amending clause (iv) (as redesignated by subparagraph (B)) to read as follows:

`(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED- As used in this chapter, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization--

`(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

`(II) to prepare or plan a terrorist activity;

`(III) to gather information on potential targets for terrorist activity;

`(IV) to solicit funds or other things of value for--

`(aa) a terrorist activity;

`(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

`(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate that he did not know, and should not reasonably have known, that the solicitation would further the organization's terrorist activity;

`(V) to solicit any individual--

`(aa) to engage in conduct otherwise described in this clause;

`(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

`(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate that he did not know, and should not reasonably have known, that the solicitation would further the organization's terrorist activity; or

`(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training--

`(aa) for the commission of a terrorist activity;

`(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

`(cc) to a terrorist organization described in clause (vi)(I) or (vi)(II); or

`(dd) to a terrorist organization described in clause (vi)(III), unless the actor can demonstrate that he did not know, and should not reasonably have known, that the act would further the organization's terrorist activity.

This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, concludes in his sole unreviewable discretion, that this clause should not apply.'; and

(G) by adding at the end the following new clause:

`(vi) TERRORIST ORGANIZATION DEFINED- As used in clause (i)(VI) and clause (iv), the term `terrorist organization' means an organization--

`(I) designated under section 219;

`(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General, as a terrorist organization, after finding that the organization engages in the activities described in subclause (I), (II), or (III) of clause (iv), or that the organization provides material support to further terrorist activity; or

`(III) that is a group of two or more individuals, whether organized or not, which engages in the activities described in subclause (I), (II), or (III) of clause (iv).'; and

(2) by adding at the end the following new subparagraph:

`(F) ASSOCIATION WITH TERRORIST ORGANIZATIONS- Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.'.

(b) CONFORMING AMENDMENTS-

(1) Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended by striking `section 212(a)(3)(B)(iii)' and inserting `section 212(a)(3)(B)(iv)'.

(2) Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking `or (IV)' and inserting `(IV), or (VI)'.

(c) RETROACTIVE APPLICATION OF AMENDMENTS-

(1) IN GENERAL- Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to--

(A) actions taken by an alien before, on, or after such date; and

(B) all aliens, without regard to the date of entry or attempted entry into the United States--

(i) in removal proceedings on or after such date (except for proceedings in which there has been a final administrative decision before such date); or

(ii) seeking admission to the United States on or after such date.

(2) SPECIAL RULE FOR ALIENS IN EXCLUSION OR DEPORTATION PROCEEDINGS-

Notwithstanding any other provision of law, sections 212(a)(3)(B) and 237(a)(4)(B) of the Immigration and Nationality Act, as amended by this Act, shall apply to all aliens in exclusion or deportation proceedings on or after the date of the enactment of this Act (except for proceedings in which there has been a final administrative decision before such date) as if such proceedings were removal proceedings.

(3) SPECIAL RULE FOR SECTION 219 ORGANIZATIONS AND ORGANIZATIONS DESIGNATED UNDER SECTION 212(a)(3)(B)(vi)(II)-

(A) IN GENERAL- Notwithstanding paragraphs (1) and (2), no alien shall be considered inadmissible under section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)), or deportable under section 237(a)(4)(B) of such Act (8 U.S.C. 1227(a)(4)(B)), by reason of the amendments made by subsection (a), on the ground that the alien engaged in a terrorist activity described in subclause (IV)(bb), (V)(bb), or (VI)(cc) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a group

at any time when the group was not a terrorist organization designated by the Secretary of State under section 219 of such Act (8 U.S.C. 1189) or otherwise designated under section 212(a)(3)(B)(vi)(II) of such Act (as so amended).

(B) STATUTORY CONSTRUCTION- Subparagraph (A) shall not be construed to prevent an alien from being considered inadmissible or deportable for having engaged in a terrorist activity--

(i) described in subclause (IV)(bb), (V)(bb), or (VI)(cc) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a terrorist organization at any time when such organization was designated by the Secretary of State under section 219 of such Act or otherwise designated under section 212(a)(3)(B)(vi)(II) of such Act (as so amended); or

(ii) described in subclause (IV)(cc), (V)(cc), or (VI)(dd) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a terrorist organization described in section 212(a)(3)(B)(vi)(III) of such Act (as so amended).

(4) EXCEPTION- The Secretary of State, in consultation with the Attorney General, may determine that the amendments made by this section shall not apply with respect to actions by an alien taken outside the United States before the date of the enactment of this Act upon the recommendation of a consular officer who has concluded that there is not reasonable ground to believe that the alien knew or reasonably should have known that the actions would further a terrorist activity.

(c) DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS- Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)) is amended--

(1) in paragraph (1)(B), by inserting `or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the capability and intent to engage in terrorist activity or terrorism' after `212(a)(3)(B)';

(2) in paragraph (1)(C), by inserting `or terrorism' after `terrorist activity';

(3) by amending paragraph (2)(A) to read as follows:

 “(A) NOTICE-

 “(i) TO CONGRESSIONAL LEADERS- Seven days before making a designation under this subsection, the Secretary shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, in writing, of the intent to designate an organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor.

 “(ii) PUBLICATION IN FEDERAL REGISTER- The Secretary shall publish the designation in the Federal Register seven days after providing the notification under clause (i).”;

(4) in paragraph (2)(B)(i), by striking ‘subparagraph (A)’ and inserting ‘subparagraph (A)(ii)’;

(5) in paragraph (2)(C), by striking ‘paragraph (2)’ and inserting ‘paragraph (2)(A)(i)’;

(6) in paragraph (3)(B), by striking ‘subsection (c)’ and inserting ‘subsection (b)’;

(7) in paragraph (4)(B), by inserting after the first sentence the following: ‘The Secretary also may redesignate such organization at the end of any 2-year redesignation period (but not sooner than 60 days prior to the termination of such period) for an additional 2-year period upon a finding that the relevant circumstances described in paragraph (1) still exist. Any redesignation shall be effective immediately following the end of the prior 2-year designation or redesignation period unless a different effective date is provided in such redesignation.’;

(8) in paragraph (6)(A)--

(A) by inserting `or a redesignation made under paragraph (4)(B)' after `paragraph (1)';

(B) in clause (i)--

(i) by inserting `or redesignation' after `designation' the first place it appears; and

(ii) by striking `of the designation'; and

(C) in clause (ii), by striking `of the designation';

(9) in paragraph (6)(B)--

(A) by striking `through (4)' and inserting `and (3)'; and

(B) by inserting at the end the following new sentence: `Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.';

(10) in paragraph (7), by inserting `, or the revocation of a redesignation under paragraph (6),' after `paragraph (5) or (6)'; and

(11) in paragraph (8)--

(A) by striking `paragraph (1)(B)' and inserting `paragraph (2)(B), or if a redesignation under this subsection has become effective under paragraph (4)(B)';

(B) by inserting `or an alien in a removal proceeding' after `criminal action'; and

(C) by inserting `or redesignation' before `as a defense'.

SEC. 412. MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW.

(a) IN GENERAL- The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 236 the following:

`MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

`SEC. 236A. (a) DETENTION OF TERRORIST ALIENS-

`(1) CUSTODY- The Attorney General shall take into custody any alien who is certified under paragraph (3).

`(2) RELEASE- Except as provided in paragraphs (5) and (6), the Attorney General shall maintain custody of such an alien until the alien is removed from the United States. Except as provided in paragraph (6), such custody shall be maintained irrespective of any relief from removal for which the alien may be eligible, or any relief from removal granted the alien, until the Attorney General determines that the alien is no longer an alien who may be certified under paragraph (3). If the alien is finally determined not to be removable, detention pursuant to this subsection shall terminate.

`(3) CERTIFICATION- The Attorney General may certify an alien under this paragraph if the Attorney General has reasonable grounds to believe that the alien--

`(A) is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii), 212(a)(3)(B), 237(a)(4)(A)(i), 237(a)(4)(A)(iii), or 237(a)(4)(B); or

`(B) is engaged in any other activity that endangers the national security of the United States.

`(4) NONDELEGATION- The Attorney General may delegate the authority provided under paragraph (3) only to the Deputy Attorney General. The Deputy Attorney General may not delegate such authority.

`(5) COMMENCEMENT OF PROCEEDINGS- The Attorney General shall place an alien detained under paragraph (1) in removal proceedings, or shall charge the alien with a criminal offense, not later

than 7 days after the commencement of such detention. If the requirement of the preceding sentence is not satisfied, the Attorney General shall release the alien.

`(6) LIMITATION ON INDEFINITE DETENTION- An alien detained solely under paragraph (1) who has not been removed under section 241(a)(1)(A), and whose removal is unlikely in the reasonably foreseeable future, may be detained for additional periods of up to six months only if the release of the alien will threaten the national security of the United States or the safety of the community or any person.

`(7) REVIEW OF CERTIFICATION- The Attorney General shall review the certification made under paragraph (3) every 6 months. If the Attorney General determines, in the Attorney General's discretion, that the certification should be revoked, the alien may be released on such conditions as the Attorney General deems appropriate, unless such release is otherwise prohibited by law. The alien may request each 6 months in writing that the Attorney General reconsider the certification and may submit documents or other evidence in support of that request.

`(b) HABEAS CORPUS AND JUDICIAL REVIEW-

`(1) IN GENERAL- Judicial review of any action or decision relating to this section (including judicial review of the merits of a determination made under subsection (a)(3) or (a)(6)) is available exclusively in habeas corpus proceedings consistent with this subsection. Except as provided in the preceding sentence, no court shall have jurisdiction to review, by habeas corpus petition or otherwise, any such action or decision.

`(2) APPLICATION-

`(A) IN GENERAL- Notwithstanding any other provision of law, including section 2241(a) of title 28, United States Code, habeas corpus proceedings described in paragraph (1) may be initiated only by an application filed with--

`(i) the Supreme Court;

`(ii) any justice of the Supreme Court;

`(iii) any circuit judge of the United States Court of Appeals for the District of Columbia Circuit; or

`(iv) any district court otherwise having jurisdiction to entertain it.

`(B) APPLICATION TRANSFER- Section 2241(b) of title 28, United States Code, shall apply to an application for a writ of habeas corpus described in subparagraph (A).

`(3) APPEALS- Notwithstanding any other provision of law, including section 2253 of title 28, in habeas corpus proceedings described in paragraph (1) before a circuit or district judge, the final order shall be subject to review, on appeal, by the United States Court of Appeals for the District of Columbia Circuit. There shall be no right of appeal in such proceedings to any other circuit court of appeals.

`(4) RULE OF DECISION- The law applied by the Supreme Court and the United States Court of Appeals for the District of Columbia Circuit shall be regarded as the rule of decision in habeas corpus proceedings described in paragraph (1).

`(c) STATUTORY CONSTRUCTION- The provisions of this section shall not be applicable to any other provision of this Act.'.

(b) CLERICAL AMENDMENT- The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236 the following:

`Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial review.'.

(c) REPORTS- Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, with respect to the reporting period, on--

(1) the number of aliens certified under section 236A(a)(3) of the Immigration and Nationality Act, as added by subsection (a);

(2) the grounds for such certifications;

- (3) the nationalities of the aliens so certified;
- (4) the length of the detention for each alien so certified; and
- (5) the number of aliens so certified who--
 - (A) were granted any form of relief from removal;
 - (B) were removed;
 - (C) the Attorney General has determined are no longer aliens who may be so certified; or
 - (D) were released from detention.

SEC. 413. MULTILATERAL COOPERATION AGAINST TERRORISTS.

Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended--

(1) by striking `except that in the discretion of' and inserting the following: `except that--

`(1) in the discretion of'; and

(2) by adding at the end the following:

`(2) the Secretary of State, in the Secretary's discretion and on the basis of reciprocity, may provide to a foreign government information in the Department of State's computerized visa lookout database and, when necessary and appropriate, other records covered by this section related to information in the database--

`(A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or

`(B) with regard to any or all aliens in the database, pursuant to such conditions as the Secretary of State shall establish in an agreement with the foreign government in which that government agrees to use such information and records for the purposes described in subparagraph (A) or to deny visas to persons who would be inadmissible to the United States.'

SEC. 414. VISA INTEGRITY AND SECURITY.

(a) SENSE OF CONGRESS REGARDING THE NEED TO EXPEDITE IMPLEMENTATION OF INTEGRATED ENTRY AND EXIT DATA SYSTEM-

(1) SENSE OF CONGRESS- In light of the terrorist attacks perpetrated against the United States on September 11, 2001, it is the sense of the Congress that--

(A) the Attorney General, in consultation with the Secretary of State, should fully implement the integrated entry and exit data system for airports, seaports, and land border ports of entry, as specified in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), with all deliberate speed and as expeditiously as practicable; and

(B) the Attorney General, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of the Treasury, and the Office of Homeland Security, should immediately begin establishing the Integrated Entry and Exit Data System Task Force, as described in section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106-215).

(2) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated such sums as may be necessary to fully implement the system described in paragraph (1)(A).

(b) DEVELOPMENT OF THE SYSTEM- In the development of the integrated entry and exit data system under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), the Attorney General and the Secretary of State shall particularly focus on--

(1) the utilization of biometric technology; and

(2) the development of tamper-resistant documents readable at ports of entry.

(c) **INTERFACE WITH LAW ENFORCEMENT DATABASES-** The entry and exit data system described in this section shall be able to interface with law enforcement databases for use by Federal law enforcement to identify and detain individuals who pose a threat to the national security of the United States.

(d) **REPORT ON SCREENING INFORMATION-** Not later than 12 months after the date of enactment of this Act, the Office of Homeland Security shall submit a report to Congress on the information that is needed from any United States agency to effectively screen visa applicants and applicants for admission to the United States to identify those affiliated with terrorist organizations or those that pose any threat to the safety or security of the United States, including the type of information currently received by United States agencies and the regularity with which such information is transmitted to the Secretary of State and the Attorney General.

SEC. 415. PARTICIPATION OF OFFICE OF HOMELAND SECURITY ON ENTRY-EXIT TASK FORCE.

Section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106-215) is amended by striking `and the Secretary of the Treasury,' and inserting `the Secretary of the Treasury, and the Office of Homeland Security'.

SEC. 416. FOREIGN STUDENT MONITORING PROGRAM.

(a) **FULL IMPLEMENTATION AND EXPANSION OF FOREIGN STUDENT VISA MONITORING PROGRAM REQUIRED-** The Attorney General, in consultation with the Secretary of State, shall fully implement and expand the program established by section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).

(b) **INTEGRATION WITH PORT OF ENTRY INFORMATION-** For each alien with respect to whom information is collected under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), the Attorney General, in consultation with the Secretary of State, shall include information on the date of entry and port of entry.

(c) **EXPANSION OF SYSTEM TO INCLUDE OTHER APPROVED EDUCATIONAL INSTITUTIONS-** Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.1372) is amended--

(1) in subsection (a)(1), subsection (c)(4)(A), and subsection (d)(1) (in the text above subparagraph (A)), by inserting `, other approved educational institutions,' after `higher education' each place it appears;

(2) in subsections (c)(1)(C), (c)(1)(D), and (d)(1)(A), by inserting `, or other approved educational institution,' after `higher education' each place it appears;

(3) in subsections (d)(2), (e)(1), and (e)(2), by inserting `, other approved educational institution,' after `higher education' each place it appears; and

(4) in subsection (h), by adding at the end the following new paragraph:

`(3) OTHER APPROVED EDUCATIONAL INSTITUTION- The term `other approved educational institution' includes any air flight school, language training school, or vocational school, approved by the Attorney General, in consultation with the Secretary of Education and the Secretary of State, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.'

(d) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to the Department of Justice \$36,800,000 for the period beginning on the date of enactment of this Act and ending on January 1, 2003, to fully implement and expand prior to January 1, 2003, the program established by section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).

SEC. 417. MACHINE READABLE PASSPORTS.

(a) AUDITS- The Secretary of State shall, each fiscal year until September 30, 2007--

(1) perform annual audits of the implementation of section 217(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(B));

(2) check for the implementation of precautionary measures to prevent the counterfeiting and theft of passports; and

(3) ascertain that countries designated under the visa waiver program have established a program to develop tamper-resistant passports.

(b) PERIODIC REPORTS- Beginning one year after the date of enactment of this Act, and every year thereafter until 2007, the Secretary of State shall submit a report to Congress setting forth the findings of the most recent audit conducted under subsection (a)(1).

(c) ADVANCING DEADLINE FOR SATISFACTION OF REQUIREMENT- Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended by striking `2007' and inserting `2003'.

(d) WAIVER- Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended--

(1) by striking `On or after' and inserting the following:

`(A) IN GENERAL- Except as provided in subparagraph (B), on or after'; and

(2) by adding at the end the following:

`(B) LIMITED WAIVER AUTHORITY- For the period beginning October 1, 2003, and ending September 30, 2007, the Secretary of State may waive the requirement of subparagraph (A) with respect to nationals of a program country (as designated under subsection (c)), if the Secretary of State finds that the program country--

`(i) is making progress toward ensuring that passports meeting the requirement of subparagraph (A) are generally available to its nationals; and

`(ii) has taken appropriate measures to protect against misuse of passports the country has issued that do not meet the requirement of subparagraph (A).'

SEC. 418. PREVENTION OF CONSULATE SHOPPING.

(a) REVIEW- The Secretary of State shall review how consular officers issue visas to determine if consular shopping is a problem.

(b) ACTIONS TO BE TAKEN- If the Secretary of State determines under subsection (a) that consular shopping is a problem, the Secretary shall take steps to address the problem and shall submit a report to Congress describing what action was taken.

Subtitle C--Preservation of Immigration Benefits for Victims of Terrorism

SEC. 421. SPECIAL IMMIGRANT STATUS.

(a) IN GENERAL- For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Attorney General may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien--

(1) files with the Attorney General a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED-

(1) PRINCIPAL ALIENS- An alien is described in this subsection if--

(A) the alien was the beneficiary of--

(i) a petition that was filed with the Attorney General on or before September 11, 2001--

(I) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or

(II) under section 214(d) (8 U.S.C. 1184(d)) of such Act to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or

(ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and

(B) such petition or application was revoked or terminated (or otherwise rendered null), either before or after its approval, due to a specified terrorist activity that directly resulted in--

(i) the death or disability of the petitioner, applicant, or alien beneficiary; or

(ii) loss of employment due to physical damage to, or destruction of, the business of the petitioner or applicant.

(2) SPOUSES AND CHILDREN-

(A) IN GENERAL- An alien is described in this subsection if--

(i) the alien was, on September 10, 2001, the spouse or child of a principal alien described in paragraph (1); and

(ii) the alien--

(I) is accompanying such principal alien; or

(II) is following to join such principal alien not later than September 11, 2003.

(B) CONSTRUCTION- For purposes of construing the terms 'accompanying' and 'following to join' in subparagraph (A)(ii), any death of a principal alien that is described in paragraph (1)(B)(i) shall be disregarded.

(3) GRANDPARENTS OF ORPHANS- An alien is described in this subsection if the alien is a grandparent of a child, both of whose parents died as a direct result of a specified terrorist activity, if either of such deceased parents was, on September 10, 2001, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) PRIORITY DATE- Immigrant visas made available under this section shall be issued to aliens in the order in which a petition on behalf of each such alien is filed with the Attorney General under subsection (a)(1), except that if an alien was assigned a priority date with respect to a petition described in subsection (b)(1)(A)(i), the alien may maintain that priority date.

(d) NUMERICAL LIMITATIONS- For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151-1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

SEC. 422. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) AUTOMATIC EXTENSION OF NONIMMIGRANT STATUS-

(1) IN GENERAL- Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), in the case of an alien described in paragraph (2) who was lawfully present in the United States as a nonimmigrant on September 10, 2001, the alien may remain lawfully in the United States in the same nonimmigrant status until the later of--

(A) the date such lawful nonimmigrant status otherwise would have terminated if this subsection had not been enacted; or

(B) 1 year after the death or onset of disability described in paragraph (2).

(2) ALIENS DESCRIBED-

(A) PRINCIPAL ALIENS- An alien is described in this paragraph if the alien was disabled as a direct result of a specified terrorist activity.

(B) SPOUSES AND CHILDREN- An alien is described in this paragraph if the alien was, on September 10, 2001, the spouse or child of--

(i) a principal alien described in subparagraph (A); or

(ii) an alien who died as a direct result of a specified terrorist activity.

(3) AUTHORIZED EMPLOYMENT- During the period in which a principal alien or alien spouse is in lawful nonimmigrant status under paragraph (1), the alien shall be provided an 'employment authorized' endorsement or other appropriate document signifying authorization of employment not later than 30 days after the alien requests such authorization.

(b) NEW DEADLINES FOR EXTENSION OR CHANGE OF NONIMMIGRANT STATUS-

(1) FILING DELAYS- In the case of an alien who was lawfully present in the United States as a nonimmigrant on September 10, 2001, if the alien was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified terrorist activity, the alien's application shall be considered timely filed if it is filed not later than 60 days after it otherwise would have been due.

(2) DEPARTURE DELAYS- In the case of an alien who was lawfully present in the United States as a nonimmigrant on September 10, 2001, if the alien is unable timely to depart the United States as a direct result of a specified terrorist activity, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on September 11, 2001, and ending on the date of the alien's departure, if such departure occurs on or before November 11, 2001.

(3) SPECIAL RULE FOR ALIENS UNABLE TO RETURN FROM ABROAD-

(A) PRINCIPAL ALIENS- In the case of an alien who was in a lawful nonimmigrant status on September 10, 2001, but who was not present in the United States on such date,

if the alien was prevented from returning to the United States in order to file a timely application for an extension of nonimmigrant status as a direct result of a specified terrorist activity--

(i) the alien's application shall be considered timely filed if it is filed not later than 60 days after it otherwise would have been due; and

(ii) the alien's lawful nonimmigrant status shall be considered to continue until the later of--

(I) the date such status otherwise would have terminated if this subparagraph had not been enacted; or

(II) the date that is 60 days after the date on which the application described in clause (i) otherwise would have been due.

(B) SPOUSES AND CHILDREN- In the case of an alien who is the spouse or child of a principal alien described in subparagraph (A), if the spouse or child was in a lawful nonimmigrant status on September 10, 2001, the spouse or child may remain lawfully in the United States in the same nonimmigrant status until the later of--

(i) the date such lawful nonimmigrant status otherwise would have terminated if this subparagraph had not been enacted; or

(ii) the date that is 60 days after the date on which the application described in subparagraph (A) otherwise would have been due.

(4) CIRCUMSTANCES PREVENTING TIMELY ACTION-

(A) FILING DELAYS- For purposes of paragraph (1), circumstances preventing an alien from timely acting are--

- (i) office closures;
- (ii) mail or courier service cessations or delays; and
- (iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(B) DEPARTURE AND RETURN DELAYS- For purposes of paragraphs (2) and (3), circumstances preventing an alien from timely acting are--

- (i) office closures;
- (ii) airline flight cessations or delays; and
- (iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(c) DIVERSITY IMMIGRANTS-

(1) WAIVER OF FISCAL YEAR LIMITATION- Notwithstanding section 203(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(e)(2)), an immigrant visa number issued to an alien under section 203(c) of such Act for fiscal year 2001 may be used by the alien during the period beginning on October 1, 2001, and ending on April 1, 2002, if the alien establishes that the alien was prevented from using it during fiscal year 2001 as a direct result of a specified terrorist activity.

(2) WORLDWIDE LEVEL- In the case of an alien entering the United States as a lawful permanent resident, or adjusting to that status, under paragraph (1) or (3), the alien shall be counted as a diversity immigrant for fiscal year 2001 for purposes of section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)), unless the worldwide level under such section for such year has been exceeded, in which case the alien shall be counted as a diversity immigrant for fiscal year 2002.

(3) TREATMENT OF FAMILY MEMBERS OF CERTAIN ALIENS- In the case of a principal alien issued an immigrant visa number under section 203(c) of the Immigration and Nationality Act (8 U.S.C.

1153(c)) for fiscal year 2001, if such principal alien died as a direct result of a specified terrorist activity, the aliens who were, on September 10, 2001, the spouse and children of such principal alien shall, until June 30, 2002, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) of section 203 of such Act, be entitled to the same status, and the same order of consideration, that would have been provided to such alien spouse or child under section 203(d) of such Act as if the principal alien were not deceased and as if the spouse or child's visa application had been adjudicated by September 30, 2001.

(4) CIRCUMSTANCES PREVENTING TIMELY ACTION- For purposes of paragraph (1), circumstances preventing an alien from using an immigrant visa number during fiscal year 2001 are--

(A) office closures;

(B) mail or courier service cessations or delays;

(C) airline flight cessations or delays; and

(D) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(d) EXTENSION OF EXPIRATION OF IMMIGRANT VISAS-

(1) IN GENERAL- Notwithstanding the limitations under section 221(c) of the Immigration and Nationality Act (8 U.S.C. 1201(c)), in the case of any immigrant visa issued to an alien that expires or expired before December 31, 2001, if the alien was unable to effect entry into the United States as a direct result of a specified terrorist activity, then the period of validity of the visa is extended until December 31, 2001, unless a longer period of validity is otherwise provided under this subtitle.

(2) CIRCUMSTANCES PREVENTING ENTRY- For purposes of this subsection, circumstances preventing an alien from effecting entry into the United States are--

(A) office closures;

(B) airline flight cessations or delays; and

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(e) GRANTS OF PAROLE EXTENDED-

(1) IN GENERAL- In the case of any parole granted by the Attorney General under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) that expires on a date on or after September 11, 2001, if the alien beneficiary of the parole was unable to return to the United States prior to the expiration date as a direct result of a specified terrorist activity, the parole is deemed extended for an additional 90 days.

(2) CIRCUMSTANCES PREVENTING RETURN- For purposes of this subsection, circumstances preventing an alien from timely returning to the United States are--

(A) office closures;

(B) airline flight cessations or delays; and

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements.

(f) VOLUNTARY DEPARTURE- Notwithstanding section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), if a period for voluntary departure under such section expired during the period beginning on September 11, 2001, and ending on October 11, 2001, such voluntary departure period is deemed extended for an additional 30 days.

SEC. 423. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING SPOUSES AND CHILDREN.

(a) TREATMENT AS IMMEDIATE RELATIVES-

(1) SPOUSES- Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of

the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen died as a direct result of a specified terrorist activity, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN-

(A) IN GENERAL- In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen died as a direct result of a specified terrorist activity, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS- An alien described in subparagraph (A) may file a petition with the Attorney General for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(b) SPOUSES, CHILDREN, UNMARRIED SONS AND DAUGHTERS OF LAWFUL PERMANENT RESIDENT ALIENS-

(1) IN GENERAL- Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien before September 11, 2001, shall be considered (if the spouse, child, son, or daughter has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for preference

status under such section with the same priority date as that assigned prior to the death described in paragraph (3)(A). No new petition shall be required to be filed. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(2) SELF-PETITIONS- Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act may file a petition for such classification with the Attorney General, if the spouse, child, son, or daughter was present in the United States on September 11, 2001. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(3) ALIENS DESCRIBED- An alien is described in this paragraph if the alien--

(A) died as a direct result of a specified terrorist activity; and

(B) on the day of such death, was lawfully admitted for permanent residence in the United States.

(c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-BASED IMMIGRANTS-

(1) IN GENERAL- Any alien who was, on September 10, 2001, the spouse or child of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(A), may have such application adjudicated as if such death had not occurred.

(2) ALIENS DESCRIBED- An alien is described in this paragraph if the alien--

(A) died as a direct result of a specified terrorist activity; and

(B) on the day before such death, was--

(i) an alien lawfully admitted for permanent residence in the United States by reason of having been allotted a visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)); or

(ii) an applicant for adjustment of status to that of an alien described in clause (i), and admissible to the United States for permanent residence.

(d) **WAIVER OF PUBLIC CHARGE GROUNDS**- In determining the admissibility of any alien accorded an immigration benefit under this section, the grounds for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply.

SEC. 424. 'AGE-OUT' PROTECTION FOR CHILDREN.

For purposes of the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), in the case of an alien--

(1) whose 21st birthday occurs in September 2001, and who is the beneficiary of a petition or application filed under such Act on or before September 11, 2001, the alien shall be considered to be a child for 90 days after the alien's 21st birthday for purposes of adjudicating such petition or application; and

(2) whose 21st birthday occurs after September 2001, and who is the beneficiary of a petition or application filed under such Act on or before September 11, 2001, the alien shall be considered to be a child for 45 days after the alien's 21st birthday for purposes of adjudicating such petition or application.

SEC. 425. TEMPORARY ADMINISTRATIVE RELIEF.

The Attorney General, for humanitarian purposes or to ensure family unity, may provide temporary administrative relief to any alien who--

(1) was lawfully present in the United States on September 10, 2001;

(2) was on such date the spouse, parent, or child of an individual who died or was disabled as a direct result of a specified terrorist activity; and

(3) is not otherwise entitled to relief under any other provision of this subtitle.

SEC. 426. EVIDENCE OF DEATH, DISABILITY, OR LOSS OF EMPLOYMENT.

(a) IN GENERAL- The Attorney General shall establish appropriate standards for evidence demonstrating, for purposes of this subtitle, that any of the following occurred as a direct result of a specified terrorist activity:

(1) Death.

(2) Disability.

(3) Loss of employment due to physical damage to, or destruction of, a business.

(b) WAIVER OF REGULATIONS- The Attorney General shall carry out subsection (a) as expeditiously as possible. The Attorney General is not required to promulgate regulations prior to implementing this subtitle.

SEC. 427. NO BENEFITS TO TERRORISTS OR FAMILY MEMBERS OF TERRORISTS.

Notwithstanding any other provision of this subtitle, nothing in this subtitle shall be construed to provide any benefit or relief to--

(1) any individual culpable for a specified terrorist activity; or

(2) any family member of any individual described in paragraph (1).

SEC. 428. DEFINITIONS.

(a) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS- Except as otherwise specifically provided in this subtitle, the definitions used in the Immigration and Nationality Act (excluding the definitions applicable exclusively to title III of such Act) shall apply in the administration of this subtitle.

(b) SPECIFIED TERRORIST ACTIVITY- For purposes of this subtitle, the term `specified terrorist activity' means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.

TITLE V--REMOVING OBSTACLES TO INVESTIGATING TERRORISM

SEC. 501. ATTORNEY GENERAL'S AUTHORITY TO PAY REWARDS TO COMBAT TERRORISM.

(a) PAYMENT OF REWARDS TO COMBAT TERRORISM- Funds available to the Attorney General may be used for the payment of rewards pursuant to public advertisements for assistance to the Department of Justice to combat terrorism and defend the Nation against terrorist acts, in accordance with procedures and regulations established or issued by the Attorney General.

(b) CONDITIONS- In making rewards under this section--

(1) no such reward of \$250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

(2) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under paragraph (1);

(3) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) may provide the Attorney General with funds for the payment of rewards;

(4) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review; and

(5) no such reward shall be subject to any per- or aggregate reward spending limitation established by law, unless that law expressly refers to this section, and no reward paid pursuant to any such offer shall count toward any such aggregate reward spending limitation.

SEC. 502. SECRETARY OF STATE'S AUTHORITY TO PAY REWARDS.

Section 36 of the State Department Basic Authorities Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C. 2708) is amended--

(1) in subsection (b)--

(A) in paragraph (4), by striking `or' at the end;

(B) in paragraph (5), by striking the period at the end and inserting `, including by dismantling an organization in whole or significant part; or'; and

(C) by adding at the end the following:

`(6) the identification or location of an individual who holds a key leadership position in a terrorist organization.';

(2) in subsection (d), by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2); and

(3) in subsection (e)(1), by inserting `, except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts.' after `\$5,000,000'.

SEC. 503. DNA IDENTIFICATION OF TERRORISTS AND OTHER VIOLENT OFFENDERS.

Section 3(d)(2) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended to read as follows:

`(2) In addition to the offenses described in paragraph (1), the following offenses shall be treated for purposes of this section as qualifying Federal offenses, as determined by the Attorney General:

`(A) Any offense listed in section 2332b(g)(5)(B) of title 18, United States Code.

`(B) Any crime of violence (as defined in section 16 of title 18, United States Code).

`(C) Any attempt or conspiracy to commit any of the above offenses.'.

SEC. 504. COORDINATION WITH LAW ENFORCEMENT.

(a) INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE- Section 106 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806), is amended by adding at the end the following:

`(k)(1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against--

`(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

`(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

`(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

`(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 104(a)(7)(B) or the entry of an order under section 105.'.

(b) INFORMATION ACQUIRED FROM A PHYSICAL SEARCH- Section 305 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by adding at the end the following:

`(k)(1) Federal officers who conduct physical searches to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against--

`(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

`(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

`(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

`(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 303(a)(7) or the entry of an order under section 304.'.

SEC. 505. MISCELLANEOUS NATIONAL SECURITY AUTHORITIES.

(a) TELEPHONE TOLL AND TRANSACTIONAL RECORDS- Section 2709(b) of title 18, United States Code, is amended--

(1) in the matter preceding paragraph (1), by inserting `at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director' after `Assistant Director';

(2) in paragraph (1)--

(A) by striking `in a position not lower than Deputy Assistant Director'; and

(B) by striking `made that' and all that follows and inserting the following: `made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and'; and

(3) in paragraph (2)--

(A) by striking `in a position not lower than Deputy Assistant Director'; and

(B) by striking `made that' and all that follows and inserting the following: `made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.'.

(b) FINANCIAL RECORDS- Section 1114(a)(5)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)) is amended--

(1) by inserting `in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director' after `designee'; and

(2) by striking `sought' and all that follows and inserting `sought for foreign counter intelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.'.

(c) CONSUMER REPORTS- Section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended--

(1) in subsection (a)--

(A) by inserting `in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director' after `designee' the first place it appears; and

(B) by striking `in writing that' and all that follows through the end and inserting the following: `in writing, that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.';

(2) in subsection (b)--

(A) by inserting `in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director' after `designee' the first place it appears; and

(B) by striking `in writing that' and all that follows through the end and inserting the following: `in writing that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.'; and

(3) in subsection (c)--

(A) by inserting `in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director' after `designee of the Director'; and

(B) by striking `in camera that' and all that follows through `States.' and inserting the following: `in camera that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.'.

SEC. 506. EXTENSION OF SECRET SERVICE JURISDICTION.

(a) Concurrent Jurisdiction Under 18 U.S.C. 1030- Section 1030(d) of title 18, United States Code, is amended to read as follows:

`(d)(1) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

`(2) The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.

`(3) Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.'.

(b) Reauthorization of Jurisdiction under 18 U.S.C. 1344- Section 3056(b)(3) of title 18, United States Code, is amended by striking `credit and debit card frauds, and false identification documents or devices' and inserting `access device frauds, false identification documents or devices, and any fraud or other criminal or unlawful activity in or against any federally insured financial institution'.

SEC. 507. DISCLOSURE OF EDUCATIONAL RECORDS.

Section 444 of the General Education Provisions Act (20 U.S.C. 1232g), is amended by adding after subsection (i) a new subsection (j) to read as follows:

`(j) INVESTIGATION AND PROSECUTION OF TERRORISM-

`(1) IN GENERAL- Notwithstanding subsections (a) through (i) or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to--

`(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and

`(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

`(2) APPLICATION AND APPROVAL-

`(A) IN GENERAL- An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

`(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

`(3) PROTECTION OF EDUCATIONAL AGENCY OR INSTITUTION- An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

`(4) RECORD-KEEPING- Subsection (b)(4) does not apply to education records subject to a court order under this subsection.'

SEC. 508. DISCLOSURE OF INFORMATION FROM NCES SURVEYS.

Section 408 of the National Education Statistics Act of 1994 (20 U.S.C. 9007), is amended by adding after subsection (b) a new subsection (c) to read as follows:

`(c) INVESTIGATION AND PROSECUTION OF TERRORISM-

`(1) IN GENERAL- Notwithstanding subsections (a) and (b), the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to--

`(A) collect reports, records, and information (including individually identifiable information) in the possession of the center that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and

`(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

`(2) APPLICATION AND APPROVAL-

`(A) IN GENERAL- An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

`(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

`(3) PROTECTION- An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2) and shall not be liable to any person for that production.'

TITLE VI--PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A--Aid to Families of Public Safety Officers

SEC. 611. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE PREVENTION, INVESTIGATION, RESCUE, OR RECOVERY EFFORTS RELATED TO A TERRORIST ATTACK.

(a) IN GENERAL- Notwithstanding the limitations of subsection (b) of section 1201 or the provisions of subsections (c), (d), and (e) of such section or section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796, 3796a), upon certification (containing identification of all eligible payees of benefits pursuant to section 1201 of such Act) by a public agency that a public safety officer employed by such agency was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty as described in section 1201 of such Act in connection with prevention, investigation, rescue, or recovery efforts related to a terrorist attack, the Director of the Bureau of Justice Assistance shall authorize payment to qualified beneficiaries, said payment to be made not later than 30 days after receipt of such certification, benefits described under subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

(b) DEFINITIONS- For purposes of this section, the terms `catastrophic injury', `public agency', and `public safety officer' have the same meanings given such terms in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

SEC. 612. TECHNICAL CORRECTION WITH RESPECT TO EXPEDITED PAYMENTS FOR HEROIC PUBLIC SAFETY OFFICERS.

Section 1 of Public Law 107-37 (an Act to provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001) is amended by--

(1) inserting before `by a' the following: `(containing identification of all eligible payees of benefits pursuant to section 1201)';

(2) inserting 'producing permanent and total disability' after 'suffered a catastrophic injury'; and

(3) striking '1201(a)' and inserting '1201'.

SEC. 613. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM PAYMENT INCREASE.

(a) PAYMENTS- Section 1201(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking '\$100,000' and inserting '\$250,000'.

(b) APPLICABILITY- The amendment made by subsection (a) shall apply to any death or disability occurring on or after January 1, 2001.

SEC. 614. OFFICE OF JUSTICE PROGRAMS.

Section 112 of title I of section 101(b) of division A of Public Law 105-277 and section 108(a) of appendix A of Public Law 106-113 (113 Stat. 1501A-20) are amended--

(1) after 'that Office', each place it occurs, by inserting '(including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90-351)'; and

(2) by inserting 'functions, including any' after 'all'.

Subtitle B--Amendments to the Victims of Crime Act of 1984

SEC. 621. CRIME VICTIMS FUND.

(a) DEPOSIT OF GIFTS IN THE FUND- Section 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(b)) is amended--

(1) in paragraph (3), by striking 'and' at the end;

(2) in paragraph (4), by striking the period at the end and inserting '; and'; and

(3) by adding at the end the following:

`(5) any gifts, bequests, or donations to the Fund from private entities or individuals.'.

(b) FORMULA FOR FUND DISTRIBUTIONS- Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

`(c) FUND DISTRIBUTION; RETENTION OF SUMS IN FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FISCAL YEAR LIMITATION-

`(1) Subject to the availability of money in the Fund, in each fiscal year, beginning with fiscal year 2003, the Director shall distribute not less than 90 percent nor more than 110 percent of the amount distributed from the Fund in the previous fiscal year, except the Director may distribute up to 120 percent of the amount distributed in the previous fiscal year in any fiscal year that the total amount available in the Fund is more than 2 times the amount distributed in the previous fiscal year.

`(2) In each fiscal year, the Director shall distribute amounts from the Fund in accordance with subsection (d). All sums not distributed during a fiscal year shall remain in reserve in the Fund to be distributed during a subsequent fiscal year. Notwithstanding any other provision of law, all sums deposited in the Fund that are not distributed shall remain in reserve in the Fund for obligation in future fiscal years, without fiscal year limitation.'.

(c) ALLOCATION OF FUNDS FOR COSTS AND GRANTS- Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended--

(1) by striking `deposited in' and inserting `to be distributed from';

(2) in subparagraph (A), by striking `48.5' and inserting `47.5';

(3) in subparagraph (B), by striking `48.5' and inserting `47.5'; and

(4) in subparagraph (C), by striking `3' and inserting `5'.

(d) ANTITERRORISM EMERGENCY RESERVE- Section 1402(d)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)) is amended to read as follows:

`(5)(A) In addition to the amounts distributed under paragraphs (2), (3), and (4), the Director may set aside up to \$50,000,000 from the amounts transferred to the Fund in response to the airplane hijackings and terrorist acts that occurred on September 11, 2001, as an antiterrorism emergency reserve. The Director may replenish any amounts expended from such reserve in subsequent fiscal years by setting aside up to 5 percent of the amounts remaining in the Fund in any fiscal year after distributing amounts under paragraphs (2), (3) and (4). Such reserve shall not exceed \$50,000,000.

`(B) The antiterrorism emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to provide compensation to victims of international terrorism under section 1404C.

`(C) Amounts in the antiterrorism emergency reserve established pursuant to subparagraph (A) may be carried over from fiscal year to fiscal year. Notwithstanding subsection (c) and section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (and any similar limitation on Fund obligations in any future Act, unless the same should expressly refer to this section), any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund.'

(e) VICTIMS OF SEPTEMBER 11, 2001- Amounts transferred to the Crime Victims Fund for use in responding to the airplane hijackings and terrorist acts (including any related search, rescue, relief, assistance, or other similar activities) that occurred on September 11, 2001, shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund, notwithstanding--

(1) section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, and any similar limitation on Fund obligations in such Act for Fiscal Year 2002; and

(2) subsections (c) and (d) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).

SEC. 622. CRIME VICTIM COMPENSATION.

(a) ALLOCATION OF FUNDS FOR COMPENSATION AND ASSISTANCE- Paragraphs (1) and (2) of section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) are amended by inserting 'in fiscal year 2002 and of 60 percent in subsequent fiscal years' after '40 percent'.

(b) LOCATION OF COMPENSABLE CRIME- Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by striking 'are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18), or'.

(c) RELATIONSHIP OF CRIME VICTIM COMPENSATION TO MEANS-TESTED FEDERAL BENEFIT PROGRAMS- Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c) and inserting the following:

'(c) EXCLUSION FROM INCOME, RESOURCES, AND ASSETS FOR PURPOSES OF MEANS TESTS- Notwithstanding any other law (other than title IV of Public Law 107-42), for the purpose of any maximum allowed income, resource, or asset eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance), any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income, resources, or assets of the applicant, nor shall that amount reduce the amount of the assistance available to the applicant from Federal, State, or local government programs using Federal funds, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.'

(d) DEFINITIONS OF 'COMPENSABLE CRIME' AND 'STATE'- Section 1403(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)) is amended--

(1) in paragraph (3), by striking 'crimes involving terrorism,'; and

(2) in paragraph (4), by inserting 'the United States Virgin Islands,' after 'the Commonwealth of Puerto Rico,'.

(e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COMPENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM COMPENSATION FUND-

(1) IN GENERAL- Section 1403(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(e)) is amended by inserting 'including the program established under title IV of Public Law 107-42,' after 'Federal program,'.

(2) COMPENSATION- With respect to any compensation payable under title IV of Public Law 107-42, the failure of a crime victim compensation program, after the effective date of final regulations issued pursuant to section 407 of Public Law 107-42, to provide compensation otherwise required pursuant to section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) shall not render that program ineligible for future grants under the Victims of Crime Act of 1984.

SEC. 623. CRIME VICTIM ASSISTANCE.

(a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES AND POSSESSIONS- Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

`(6) An agency of the Federal Government performing local law enforcement functions in and on behalf of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any other territory or possession of the United States may qualify as an eligible crime victim assistance program for the purpose of grants under this subsection, or for the purpose of grants under subsection (c)(1).`.

(b) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN VICTIMS- Section 1404(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended--

(1) in subparagraph (D), by striking `and' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting `; and'; and

(3) by adding at the end the following:

`(F) does not discriminate against victims because they disagree with the way the State is prosecuting the criminal case.`.

(c) GRANTS FOR PROGRAM EVALUATION AND COMPLIANCE EFFORTS- Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting `, program evaluation, compliance efforts,' after `demonstration projects'.

(d) ALLOCATION OF DISCRETIONARY GRANTS- Section 1404(c)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(2)) is amended--

(1) in subparagraph (A), by striking `not more than' and inserting `not less than'; and

(2) in subparagraph (B), by striking `not less than' and inserting `not more than'.

(e) FELLOWSHIPS AND CLINICAL INTERNSHIPS- Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(3)) is amended--

(1) in subparagraph (C), by striking `and' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting `; and'; and

(3) by adding at the end the following:

`(E) use funds made available to the Director under this subsection--

`(i) for fellowships and clinical internships; and

`(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects.'.

SEC. 624. VICTIMS OF TERRORISM.

(a) COMPENSATION AND ASSISTANCE TO VICTIMS OF DOMESTIC TERRORISM- Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended to read as follows:

`(b) VICTIMS OF TERRORISM WITHIN THE UNITED STATES- The Director may make supplemental grants as provided in section 1402(d)(5) to States for eligible crime victim compensation and assistance programs, and to victim service organizations, public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, compensation, training and technical assistance, and ongoing assistance, including

during any investigation or prosecution, to victims of terrorist acts or mass violence occurring within the United States.'.

(b) ASSISTANCE TO VICTIMS OF INTERNATIONAL TERRORISM- Section 1404B(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended by striking `who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986'.

(c) COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM- Section 1404C(b) of the Victims of Crime of 1984 (42 U.S.C. 10603c(b)) is amended by adding at the end the following: `The amount of compensation awarded to a victim under this subsection shall be reduced by any amount that the victim received in connection with the same act of international terrorism under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.'.

TITLE VII--INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

SEC. 701. EXPANSION OF REGIONAL INFORMATION SHARING SYSTEM TO FACILITATE FEDERAL-STATE-LOCAL LAW ENFORCEMENT RESPONSE RELATED TO TERRORIST ATTACKS.

Section 1301 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) is amended--

(1) in subsection (a), by inserting `and terrorist conspiracies and activities' after `activities';

(2) in subsection (b)--

(A) in paragraph (3), by striking `and' after the semicolon;

(B) by redesignating paragraph (4) as paragraph (5);

(C) by inserting after paragraph (3) the following:

`(4) establishing and operating secure information sharing systems to enhance the investigation and prosecution abilities of participating enforcement agencies in addressing multi-jurisdictional terrorist conspiracies and activities; and (5)'; and

(3) by inserting at the end the following:

`(d) AUTHORIZATION OF APPROPRIATION TO THE BUREAU OF JUSTICE ASSISTANCE- There are authorized to be appropriated to the Bureau of Justice Assistance to carry out this section \$50,000,000 for fiscal year 2002 and \$100,000,000 for fiscal year 2003.'.

TITLE VIII--STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS.

Chapter 97 of title 18, United States Code, is amended by adding at the end the following:

`Sec. 1993. Terrorist attacks and other acts of violence against mass transportation systems

`(a) GENERAL PROHIBITIONS- Whoever willfully--

`(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or ferry;

`(2) places or causes to be placed any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

`(3) sets fire to, or places any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle or ferry used, operated, or employed by the mass transportation provider;

`(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal without authorization from the mass transportation provider;

`(5) interferes with, disables, or incapacitates any dispatcher, driver, captain, or person while they are employed in dispatching, operating, or maintaining a mass transportation vehicle or ferry, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

`(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to an employee or passenger of a mass transportation provider or any other person while any of the foregoing are on the property of a mass transportation provider;

`(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

`(8) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

`(b) AGGRAVATED OFFENSE- Whoever commits an offense under subsection (a) in a circumstance in which--

`(1) the mass transportation vehicle or ferry was carrying a passenger at the time of the offense; or

`(2) the offense has resulted in the death of any person,

shall be guilty of an aggravated form of the offense and shall be fined under this title or imprisoned for a term of years or for life, or both.

`(c) DEFINITIONS- In this section--

- `(1) the term 'biological agent' has the meaning given to that term in section 178(1) of this title;
- `(2) the term 'dangerous weapon' has the meaning given to that term in section 930 of this title;
- `(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4) of this title;
- `(4) the term 'destructive substance' has the meaning given to that term in section 31 of this title;
- `(5) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;
- `(6) the term 'serious bodily injury' has the meaning given to that term in section 1365 of this title;
- `(7) the term 'State' has the meaning given to that term in section 2266 of this title; and
- `(8) the term 'toxin' has the meaning given to that term in section 178(2) of this title.'

(f) CONFORMING AMENDMENT- The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end:

`1993. Terrorist attacks and other acts of violence against mass transportation systems.'

SEC. 802. DEFINITION OF DOMESTIC TERRORISM.

(a) DOMESTIC TERRORISM DEFINED- Section 2331 of title 18, United States Code, is amended--

- (1) in paragraph (1)(B)(iii), by striking 'by assassination or kidnapping' and inserting 'by mass destruction, assassination, or kidnapping';
- (2) in paragraph (3), by striking 'and';
- (3) in paragraph (4), by striking the period at the end and inserting '; and'; and

(4) by adding at the end the following:

`(5) the term `domestic terrorism' means activities that--

`(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

`(B) appear to be intended--

`(i) to intimidate or coerce a civilian population;

`(ii) to influence the policy of a government by intimidation or coercion;
or

`(iii) to affect the conduct of a government by mass destruction,
assassination, or kidnapping; and

`(C) occur primarily within the territorial jurisdiction of the United States.'.

(b) CONFORMING AMENDMENT- Section 3077(1) of title 18, United States Code, is amended to read as follows:

`(1) `act of terrorism' means an act of domestic or international terrorism as defined in section 2331;'.

SEC. 803. PROHIBITION AGAINST HARBORING TERRORISTS.

(a) IN GENERAL- Chapter 113B of title 18, United States Code, is amended by adding after section 2338 the following new section:

`Sec. 2339. Harboring or concealing terrorists

`(a) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under section 32 (relating to destruction of aircraft or aircraft facilities), section 175 (relating to biological weapons), section 229 (relating to chemical weapons), section 831 (relating to nuclear materials), paragraph (2) or (3) of section 844(f) (relating to arson and bombing of government property risking or causing injury

or death), section 1366(a) (relating to the destruction of an energy facility), section 2280 (relating to violence against maritime navigation), section 2332a (relating to weapons of mass destruction), or section 2332b (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relating to aircraft piracy) of title 49, shall be fined under this title or imprisoned not more than ten years, or both.'

`(b) A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.'

(b) TECHNICAL AMENDMENT- The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item for section 2338 the following:

`2339. Harboring or concealing terrorists.'

SEC. 804. JURISDICTION OVER CRIMES COMMITTED AT U.S. FACILITIES ABROAD.

Section 7 of title 18, United States Code, is amended by adding at the end the following:

`(9) With respect to offenses committed by or against a national of the United States as that term is used in section 101 of the Immigration and Nationality Act--

`(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

`(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.'

SEC. 805. MATERIAL SUPPORT FOR TERRORISM.

(a) IN GENERAL- Section 2339A of title 18, United States Code, is amended--

(1) in subsection (a)--

(A) by striking `, within the United States,';

(B) by inserting `229,' after `175,';

(C) by inserting `1993,' after `1992,';

(D) by inserting `, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284),' after `of this title';

(E) by inserting `or 60123(b)' after `46502'; and

(F) by inserting at the end the following: `A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.'; and

(2) in subsection (b)--

(A) by striking `or other financial securities' and inserting `or monetary instruments or financial securities'; and

(B) by inserting `expert advice or assistance,' after `training,'.

(b) TECHNICAL AMENDMENT- Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting `or 2339B' after `2339A'.

SEC. 806. ASSETS OF TERRORIST ORGANIZATIONS.

Section 981(a)(1) of title 18, United States Code, is amended by inserting at the end the following:

`(G) All assets, foreign or domestic--

`(i) of any individual, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

`(ii) acquired or maintained by any person with the intent and for the purpose of supporting, planning, conducting, or concealing an act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property; or

`(iii) derived from, involved in, or used or intended to be used to commit any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property.'.

SEC. 807. TECHNICAL CLARIFICATION RELATING TO PROVISION OF MATERIAL SUPPORT TO TERRORISM.

No provision of the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of Public Law 106-387) shall be construed to limit or otherwise affect section 2339A or 2339B of title 18, United States Code.

SEC. 808. DEFINITION OF FEDERAL CRIME OF TERRORISM.

Section 2332b of title 18, United States Code, is amended--

(1) in subsection (f), by inserting `and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title,' before `and the Secretary'; and

(2) in subsection (g)(5)(B), by striking clauses (i) through (iii) and inserting the following:

`(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within

special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 229 (relating to chemical weapons), subsection (a), (b), (c), or (d) of section 351 (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad), 1030(a)(1) (relating to protection of computers), 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems), 2155 (relating to destruction of national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

`(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

`(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.'.

SEC. 809. NO STATUTE OF LIMITATION FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL- Section 3286 of title 18, United States Code, is amended to read as follows:

`Sec. 3286. Extension of statute of limitation for certain terrorism offenses

`(a) EIGHT-YEAR LIMITATION- Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any noncapital offense involving a violation of any provision listed in section 2332b(g)(5)(B), or a violation of section 112, 351(e), 1361, or 1751(e) of this title, or section 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed. Notwithstanding the preceding sentence, offenses listed in section 3295 are subject to the statute of limitations set forth in that section.

`(b) NO LIMITATION- Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense listed in section 2332b(g)(5)(B), if the commission of such offense resulted in, or created a foreseeable risk of, death or serious bodily injury to another person.'.

(b) APPLICATION- The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

SEC. 810. ALTERNATE MAXIMUM PENALTIES FOR TERRORISM OFFENSES.

(a) ARSON- Section 81 of title 18, United States Code, is amended in the second undesignated paragraph by striking 'not more than twenty years' and inserting 'for any term of years or for life'.

(b) DESTRUCTION OF AN ENERGY FACILITY- Section 1366 of title 18, United States Code, is amended--

(1) in subsection (a), by striking `ten' and inserting `20'; and

(2) by adding at the end the following:

`(d) Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.'.

(c) MATERIAL SUPPORT TO TERRORISTS- Section 2339A(a) of title 18, United States Code, is amended--

(1) by striking `10' and inserting `15'; and

(2) by striking the period and inserting `, and, if the death of any person results, shall be imprisoned for any term of years or for life.'.

(d) MATERIAL SUPPORT TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS- Section 2339B(a)(1) of title 18, United States Code, is amended--

(1) by striking `10' and inserting `15'; and

(2) by striking the period after `or both' and inserting `, and, if the death of any person results, shall be imprisoned for any term of years or for life.'.

(e) DESTRUCTION OF NATIONAL-DEFENSE MATERIALS- Section 2155(a) of title 18, United States Code, is amended--

(1) by striking `ten' and inserting `20'; and

(2) by striking the period at the end and inserting `, and, if death results to any person, shall be imprisoned for any term of years or for life.'.

(f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL- Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), is amended--

(1) by striking `ten' each place it appears and inserting `20';

(2) in subsection (a), by striking the period at the end and inserting `, and, if death results to any person, shall be imprisoned for any term of years or for life.'; and

(3) in subsection (b), by striking the period at the end and inserting `, and, if death results to any person, shall be imprisoned for any term of years or for life.'.

(g) SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES- Section 46505(c) of title 49, United States Code, is amended--

(1) by striking `15' and inserting `20'; and

(2) by striking the period at the end and inserting `, and, if death results to any person, shall be imprisoned for any term of years or for life.'.

(h) DAMAGING OR DESTROYING AN INTERSTATE GAS OR HAZARDOUS LIQUID PIPELINE FACILITY- Section 60123(b) of title 49, United States Code, is amended--

(1) by striking `15' and inserting `20'; and

(2) by striking the period at the end and inserting `, and, if death results to any person, shall be imprisoned for any term of years or for life.'.

SEC. 811. PENALTIES FOR TERRORIST CONSPIRACIES.

(a) ARSON- Section 81 of title 18, United States Code, is amended in the first undesignated paragraph--

(1) by striking `, or attempts to set fire to or burn'; and

(2) by inserting `or attempts or conspires to do such an act,' before `shall be imprisoned'.

(b) KILLINGS IN FEDERAL FACILITIES- Section 930(c) of title 18, United States Code, is amended--

(1) by striking `or attempts to kill';

(2) by inserting `or attempts or conspires to do such an act,' before `shall be punished'; and

(3) by striking `and 1113' and inserting `1113, and 1117'.

(c) COMMUNICATIONS LINES, STATIONS, OR SYSTEMS- Section 1362 of title 18, United States Code, is amended in the first undesignated paragraph--

(1) by striking `or attempts willfully or maliciously to injure or destroy'; and

(2) by inserting `or attempts or conspires to do such an act,' before `shall be fined'.

(d) BUILDINGS OR PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION- Section 1363 of title 18, United States Code, is amended--

(1) by striking `or attempts to destroy or injure'; and

(2) by inserting `or attempts or conspires to do such an act,' before `shall be fined' the first place it appears.

(e) WRECKING TRAINS- Section 1992 of title 18, United States Code, is amended by adding at the end the following:

`(c) A person who conspires to commit any offense defined in this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.'.

(f) MATERIAL SUPPORT TO TERRORISTS- Section 2339A of title 18, United States Code, is amended by inserting `or attempts or conspires to do such an act,' before `shall be fined'.

(g) TORTURE- Section 2340A of title 18, United States Code, is amended by adding at the end the following:

`(c) CONSPIRACY- A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.'

(h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL- Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), is amended--

(1) in subsection (a)--

(A) by striking `, or who intentionally and willfully attempts to destroy or cause physical damage to';

(B) in paragraph (4), by striking the period at the end and inserting a comma; and

(C) by inserting `or attempts or conspires to do such an act,' before `shall be fined'; and

(2) in subsection (b)--

(A) by striking `or attempts to cause'; and

(B) by inserting `or attempts or conspires to do such an act,' before `shall be fined'.

(i) INTERFERENCE WITH FLIGHT CREW MEMBERS AND ATTENDANTS- Section 46504 of title 49, United States Code, is amended by inserting `or attempts or conspires to do such an act,' before `shall be fined'.

(j) SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES- Section 46505 of title 49, United States Code, is amended by adding at the end the following:

`(e) CONSPIRACY- If two or more persons conspire to violate subsection (b) or (c), and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in such subsection.'

(k) DAMAGING OR DESTROYING AN INTERSTATE GAS OR HAZARDOUS LIQUID PIPELINE FACILITY- Section 60123(b) of title 49, United States Code, is amended--

(1) by striking `, or attempting to damage or destroy,'; and

(2) by inserting `, or attempting or conspiring to do such an act,' before `shall be fined'.

SEC. 812. POST-RELEASE SUPERVISION OF TERRORISTS.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

`(j) SUPERVISED RELEASE TERMS FOR TERRORISM PREDICATES- Notwithstanding subsection (b), the authorized term of supervised release for any offense listed in section 2332b(g)(5)(B), the commission of which resulted in, or created a foreseeable risk of, death or serious bodily injury to another person, is any term of years or life.'.

SEC. 813. INCLUSION OF ACTS OF TERRORISM AS RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended--

(1) by striking `or (F)' and inserting `(F)'; and

(2) by inserting before the semicolon at the end the following: `, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B)'.

SEC. 814. DETERRENCE AND PREVENTION OF CYBERTERRORISM.

(a) CLARIFICATION OF PROTECTION OF PROTECTED COMPUTERS- Section 1030(a)(5) of title 18, United States Code, is amended--

(1) by inserting `(i)' after `(A)';

(2) by redesignating subparagraphs (B) and (C) as clauses (ii) and (iii), respectively;

(3) by adding `and' at the end of clause (iii), as so redesignated; and

(4) by adding at the end the following:

`(B) by conduct described in clause (i), (ii), or (iii) of subparagraph (A), caused (or, in the case of an attempted offense, would, if completed, have caused)--

`(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least \$5,000 in value;

`(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

`(iii) physical injury to any person;

`(iv) a threat to public health or safety; or

`(v) damage affecting a computer system used by or for a government entity in furtherance of the administration of justice, national defense, or national security;'

(b) PROTECTION FROM EXTORTION- Section 1030(a)(7) of title 18, United States Code, is amended by striking `, firm, association, educational institution, financial institution, government entity, or other legal entity,'.

(c) PENALTIES- Section 1030(c) of title 18, United States Code, is amended--

(1) in paragraph (2)--

(A) in subparagraph (A) --

(i) by inserting `except as provided in subparagraph (B),' before `a fine';

(ii) by striking `(a)(5)(C)' and inserting `(a)(5)(A)(iii)'; and

(iii) by striking `and' at the end;

(B) in subparagraph (B), by inserting `or an attempt to commit an offense punishable under this subparagraph,' after `subsection (a)(2),' in the matter preceding clause (i); and

(C) in subparagraph (C), by striking `and' at the end;

(2) in paragraph (3)--

(A) by striking `, (a)(5)(A), (a)(5)(B),' both places it appears; and

(B) by striking `(a)(5)(C)' and inserting `(a)(5)(A)(iii)'; and

(3) by adding at the end the following:

`(4)(A) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(A)(i), or an attempt to commit an offense punishable under that subsection;

`(B) a fine under this title, imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(5)(A)(ii), or an attempt to commit an offense punishable under that subsection;

`(C) a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an offense punishable under either subsection, that occurs after a conviction for another offense under this section.'.

(d) DEFINITIONS- Section 1030(e) of title 18, United States Code is amended--

(1) in paragraph (2)(B), by inserting `, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States' before the semicolon;

(2) in paragraph (7), by striking `and' at the end;

(3) by striking paragraph (8) and inserting the following:

`(8) the term `damage' means any impairment to the integrity or availability of data, a program, a system, or information;';

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

`(10) the term `conviction' shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer;

`(11) the term `loss' means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service; and

`(12) the term `person' means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity.'.

(e) DAMAGES IN CIVIL ACTIONS- Section 1030(g) of title 18, United States Code is amended--

(1) by striking the second sentence and inserting the following: `A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages.'; and

(2) by adding at the end the following: `No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.'.

(f) AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER FRAUD AND ABUSE- Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to ensure that any individual convicted of a violation of section 1030 of title 18, United States Code, can be subjected to appropriate penalties, without regard to any mandatory minimum term of imprisonment.

SEC. 815. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELATING TO PRESERVING RECORDS IN RESPONSE TO GOVERNMENT REQUESTS.

Section 2707(e)(1) of title 18, United States Code, is amended by inserting after 'or statutory authorization' the following: '(including a request of a governmental entity under section 2703(f) of this title)'.

SEC. 816. DEVELOPMENT AND SUPPORT OF CYBERSECURITY FORENSIC CAPABILITIES.

(a) IN GENERAL- The Attorney General shall establish such regional computer forensic laboratories as the Attorney General considers appropriate, and provide support to existing computer forensic laboratories, in order that all such computer forensic laboratories have the capability--

- (1) to provide forensic examinations with respect to seized or intercepted computer evidence relating to criminal activity (including cyberterrorism);
- (2) to provide training and education for Federal, State, and local law enforcement personnel and prosecutors regarding investigations, forensic analyses, and prosecutions of computer-related crime (including cyberterrorism);
- (3) to assist Federal, State, and local law enforcement in enforcing Federal, State, and local criminal laws relating to computer-related crime;
- (4) to facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of computer-related crime with State and local law enforcement personnel and prosecutors, including the use of multijurisdictional task forces; and
- (5) to carry out such other activities as the Attorney General considers appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS-

- (1) AUTHORIZATION- There is hereby authorized to be appropriated in each fiscal year \$50,000,000 for purposes of carrying out this section.

(2) AVAILABILITY- Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 817. EXPANSION OF THE BIOLOGICAL WEAPONS STATUTE.

Chapter 10 of title 18, United States Code, is amended--

(1) in section 175--

(A) in subsection (b)--

(i) by striking 'does not include' and inserting 'includes';

(ii) by inserting 'other than' after 'system for'; and

(iii) by inserting 'bona fide research' after 'protective';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

`(b) ADDITIONAL OFFENSE- Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms 'biological agent' and 'toxin' do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.';

(2) by inserting after section 175a the following:

`SEC. 175b. POSSESSION BY RESTRICTED PERSONS.

`(a) No restricted person described in subsection (b) shall ship or transport interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j)

of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations.

`(b) In this section:

`(1) The term `select agent' does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

`(2) The term `restricted person' means an individual who--

`(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

`(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

`(C) is a fugitive from justice;

`(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

`(E) is an alien illegally or unlawfully in the United States;

`(F) has been adjudicated as a mental defective or has been committed to any mental institution;

`(G) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination

(that remains in effect) that such country has repeatedly provided support for acts of international terrorism; or

`(H) has been discharged from the Armed Services of the United States under dishonorable conditions.

`(3) The term `alien' has the same meaning as in section 1010(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

`(4) The term `lawfully admitted for permanent residence' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

`(c) Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.'; and

(3) in the chapter analysis, by inserting after the item relating to section 175a the following:

`175b. Possession by restricted persons.'.

TITLE IX--IMPROVED INTELLIGENCE

SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL INTELLIGENCE REGARDING FOREIGN INTELLIGENCE COLLECTED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403-3(c)) is amended--

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph (6):

`(6) establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the

Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for foreign intelligence purposes, except that the Director shall have no authority to direct, manage, or undertake electronic surveillance or physical search operations pursuant to that Act unless otherwise authorized by statute or executive order;'

SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST ACTIVITIES WITHIN SCOPE OF FOREIGN INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended--

(1) in paragraph (2), by inserting before the period the following: `, or international terrorist activities'; and

(2) in paragraph (3), by striking `and activities conducted' and inserting `, and activities conducted,'.

SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT AND MAINTENANCE OF INTELLIGENCE RELATIONSHIPS TO ACQUIRE INFORMATION ON TERRORISTS AND TERRORIST ORGANIZATIONS.

It is the sense of Congress that officers and employees of the intelligence community of the Federal Government, acting within the course of their official duties, should be encouraged, and should make every effort, to establish and maintain intelligence relationships with any person, entity, or group for the purpose of engaging in lawful intelligence activities, including the acquisition of information on the identity, location, finances, affiliations, capabilities, plans, or intentions of a terrorist or terrorist organization, or information on any other person, entity, or group (including a foreign government) engaged in harboring, comforting, financing, aiding, or assisting a terrorist or terrorist organization.

SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL TO CONGRESS OF REPORTS ON INTELLIGENCE AND INTELLIGENCE-RELATED MATTERS.

(a) **AUTHORITY TO DEFER-** The Secretary of Defense, Attorney General, and Director of Central Intelligence each may, during the effective period of this section, defer the date of submittal to Congress of any covered intelligence report under the jurisdiction of such official until February 1, 2002.

(b) COVERED INTELLIGENCE REPORT- Except as provided in subsection (c), for purposes of subsection (a), a covered intelligence report is as follows:

(1) Any report on intelligence or intelligence-related activities of the United States Government that is required to be submitted to Congress by an element of the intelligence community during the effective period of this section.

(2) Any report or other matter that is required to be submitted to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives by the Department of Defense or the Department of Justice during the effective period of this section.

(c) EXCEPTION FOR CERTAIN REPORTS- For purposes of subsection (a), any report required by section 502 or 503 of the National Security Act of 1947 (50 U.S.C. 413a, 413b) is not a covered intelligence report.

(d) NOTICE TO CONGRESS- Upon deferring the date of submittal to Congress of a covered intelligence report under subsection (a), the official deferring the date of submittal of the covered intelligence report shall submit to Congress notice of the deferral. Notice of deferral of a report shall specify the provision of law, if any, under which the report would otherwise be submitted to Congress.

(e) EXTENSION OF DEFERRAL- (1) Each official specified in subsection (a) may defer the date of submittal to Congress of a covered intelligence report under the jurisdiction of such official to a date after February 1, 2002, if such official submits to the committees of Congress specified in subsection (b)(2) before February 1, 2002, a certification that preparation and submittal of the covered intelligence report on February 1, 2002, will impede the work of officers or employees who are engaged in counterterrorism activities.

(2) A certification under paragraph (1) with respect to a covered intelligence report shall specify the date on which the covered intelligence report will be submitted to Congress.

(f) EFFECTIVE PERIOD- The effective period of this section is the period beginning on the date of the enactment of this Act and ending on February 1, 2002.

(g) ELEMENT OF THE INTELLIGENCE COMMUNITY DEFINED- In this section, the term 'element of the intelligence community' means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTELLIGENCE OF FOREIGN INTELLIGENCE-RELATED INFORMATION WITH RESPECT TO CRIMINAL INVESTIGATIONS.

(a) IN GENERAL- Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended--

(1) by redesignating subsection 105B as section 105C; and

(2) by inserting after section 105A the following new section 105B:

`DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL INVESTIGATIONS OF FOREIGN INTELLIGENCE SOURCES

`SEC. 105B. (a) DISCLOSURE OF FOREIGN INTELLIGENCE- (1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of Central Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

`(2) The Attorney General by regulation and in consultation with the Director of Central Intelligence may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

`(b) PROCEDURES FOR NOTICE OF CRIMINAL INVESTIGATIONS- Not later than 180 days after the date of enactment of this section, the Attorney General, in consultation with the Director of Central Intelligence, shall develop guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director of Central Intelligence, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

`(c) PROCEDURES- The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) and the provision of notice with respect to criminal investigations under subsection (b).!.

(b) CLERICAL AMENDMENT- The table of contents in the first section of that Act is amended by striking the item relating to section 105B and inserting the following new items:

`Sec. 105B. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources.

`Sec. 105C. Protection of the operational files of the National Imagery and Mapping Agency.'.

SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.

(a) REPORT ON RECONFIGURATION- Not later than February 1, 2002, the Attorney General, the Director of Central Intelligence, and the Secretary of the Treasury shall jointly submit to Congress a report on the feasibility and desirability of reconfiguring the Foreign Terrorist Asset Tracking Center and the Office of Foreign Assets Control of the Department of the Treasury in order to establish a capability to provide for the effective and efficient analysis and dissemination of foreign intelligence relating to the financial capabilities and resources of international terrorist organizations.

(b) REPORT REQUIREMENTS- (1) In preparing the report under subsection (a), the Attorney General, the Secretary, and the Director shall consider whether, and to what extent, the capacities and resources of the Financial Crimes Enforcement Center of the Department of the Treasury may be integrated into the capability contemplated by the report.

(2) If the Attorney General, Secretary, and the Director determine that it is feasible and desirable to undertake the reconfiguration described in subsection (a) in order to establish the capability described in that subsection, the Attorney General, the Secretary, and the Director shall include with the report under that subsection a detailed proposal for legislation to achieve the reconfiguration.

SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.

(a) REPORT ON ESTABLISHMENT- (1) Not later than February 1, 2002, the Director of Central Intelligence shall, in consultation with the Director of the Federal Bureau of Investigation, submit to the appropriate committees of Congress

a report on the establishment and maintenance within the intelligence community of an element for purposes of providing timely and accurate translations of foreign intelligence for all other elements of the intelligence community. In the report, the element shall be referred to as the 'National Virtual Translation Center'.

(2) The report on the element described in paragraph (1) shall discuss the use of state-of-the-art communications technology, the integration of existing translation capabilities in the intelligence community, and the utilization of remote-connection capacities so as to minimize the need for a central physical facility for the element.

(b) RESOURCES- The report on the element required by subsection (a) shall address the following:

(1) The assignment to the element of a staff of individuals possessing a broad range of linguistic and translation skills appropriate for the purposes of the element.

(2) The provision to the element of communications capabilities and systems that are commensurate with the most current and sophisticated communications capabilities and systems available to other elements of intelligence community.

(3) The assurance, to the maximum extent practicable, that the communications capabilities and systems provided to the element will be compatible with communications capabilities and systems utilized by the Federal Bureau of Investigation in securing timely and accurate translations of foreign language materials for law enforcement investigations.

(4) The development of a communications infrastructure to ensure the efficient and secure use of the translation capabilities of the element.

(c) SECURE COMMUNICATIONS- The report shall include a discussion of the creation of secure electronic communications between the element described by subsection (a) and the other elements of the intelligence community.

(d) DEFINITIONS- In this section:

(1) FOREIGN INTELLIGENCE- The term 'foreign intelligence' has the meaning given that term in section 3(2) of the National Security Act of 1947 (50 U.S.C. 401a(2)).

(2) ELEMENT OF THE INTELLIGENCE COMMUNITY- The term 'element of the intelligence community' means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARDING IDENTIFICATION AND USE OF FOREIGN INTELLIGENCE.

(a) PROGRAM REQUIRED- The Attorney General shall, in consultation with the Director of Central Intelligence, carry out a program to provide appropriate training to officials described in subsection (b) in order to assist such officials in--

(1) identifying foreign intelligence information in the course of their duties; and

(2) utilizing foreign intelligence information in the course of their duties, to the extent that the utilization of such information is appropriate for such duties.

(b) OFFICIALS- The officials provided training under subsection (a) are, at the discretion of the Attorney General and the Director, the following:

(1) Officials of the Federal Government who are not ordinarily engaged in the collection, dissemination, and use of foreign intelligence in the performance of their duties.

(2) Officials of State and local governments who encounter, or may encounter in the course of a terrorist event, foreign intelligence in the performance of their duties.

(c) AUTHORIZATION OF APPROPRIATIONS- There is hereby authorized to be appropriated for the Department of Justice such sums as may be necessary for purposes of carrying out the program required by subsection (a).

TITLE X--MISCELLANEOUS

SEC. 1001. REVIEW OF THE DEPARTMENT OF JUSTICE.

The Inspector General of the Department of Justice shall designate one official who shall--

- (1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice;
- (2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the official; and
- (3) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report on the implementation of this subsection and detailing any abuses described in paragraph (1), including a description of the use of funds appropriations used to carry out this subsection.

SEC. 1002. SENSE OF CONGRESS.

(a) FINDINGS- Congress finds that--

- (1) all Americans are united in condemning, in the strongest possible terms, the terrorists who planned and carried out the attacks against the United States on September 11, 2001, and in pursuing all those responsible for those attacks and their sponsors until they are brought to justice;
- (2) Sikh-Americans form a vibrant, peaceful, and law-abiding part of America's people;
- (3) approximately 500,000 Sikhs reside in the United States and are a vital part of the Nation;
- (4) Sikh-Americans stand resolutely in support of the commitment of our Government to bring the terrorists and those that harbor them to justice;
- (5) the Sikh faith is a distinct religion with a distinct religious and ethnic identity that has its own places of worship and a distinct holy text and religious tenets;
- (6) many Sikh-Americans, who are easily recognizable by their turbans and beards, which are required articles of their faith, have suffered both verbal and physical assaults as a result of misguided anger toward Arab-Americans and Muslim-Americans in the wake of the September 11, 2001 terrorist attack;

(7) Sikh-Americans, as do all Americans, condemn acts of prejudice against any American; and

(8) Congress is seriously concerned by the number of crimes against Sikh-Americans and other Americans all across the Nation that have been reported in the wake of the tragic events that unfolded on September 11, 2001.

(b) SENSE OF CONGRESS- Congress--

(1) declares that, in the quest to identify, locate, and bring to justice the perpetrators and sponsors of the terrorist attacks on the United States on September 11, 2001, the civil rights and civil liberties of all Americans, including Sikh-Americans, should be protected;

(2) condemns bigotry and any acts of violence or discrimination against any Americans, including Sikh-Americans;

(3) calls upon local and Federal law enforcement authorities to work to prevent crimes against all Americans, including Sikh-Americans; and

(4) calls upon local and Federal law enforcement authorities to prosecute to the fullest extent of the law all those who commit crimes.

SEC. 1003. DEFINITION OF 'ELECTRONIC SURVEILLANCE'.

Section 101(f)(2) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801(f)(2)) is amended by adding at the end before the semicolon the following: ` , but does not include the acquisition of those communications of computer trespassers that would be permissible under section 2511(2)(i) of title 18, United States Code'.

SEC. 1004. VENUE IN MONEY LAUNDERING CASES.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

`(i) VENUE- (1) Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in--

`(A) any district in which the financial or monetary transaction is conducted; or

`(B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

`(2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place.

`(3) For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.'.

SEC. 1005. FIRST RESPONDERS ASSISTANCE ACT.

(a) GRANT AUTHORIZATION- The Attorney General shall make grants described in subsections (b) and (c) to States and units of local government to improve the ability of State and local law enforcement, fire department and first responders to respond to and prevent acts of terrorism.

(b) TERRORISM PREVENTION GRANTS- Terrorism prevention grants under this subsection may be used for programs, projects, and other activities to--

(1) hire additional law enforcement personnel dedicated to intelligence gathering and analysis functions, including the formation of full-time intelligence and analysis units;

(2) purchase technology and equipment for intelligence gathering and analysis functions, including wire-tap, pen links, cameras, and computer hardware and software;

(3) purchase equipment for responding to a critical incident, including protective equipment for patrol officers such as quick masks;

(4) purchase equipment for managing a critical incident, such as communications equipment for improved interoperability among surrounding jurisdictions and mobile command posts for overall scene management; and

(5) fund technical assistance programs that emphasize coordination among neighboring law enforcement agencies for sharing resources, and resources coordination among law enforcement agencies for combining intelligence gathering and analysis functions, and the development of policy, procedures, memorandums of understanding, and other best practices.

(c) ANTITERRORISM TRAINING GRANTS- Antiterrorism training grants under this subsection may be used for programs, projects, and other activities to address--

- (1) intelligence gathering and analysis techniques;
- (2) community engagement and outreach;
- (3) critical incident management for all forms of terrorist attack;
- (4) threat assessment capabilities;
- (5) conducting followup investigations; and
- (6) stabilizing a community after a terrorist incident.

(d) APPLICATION-

(1) IN GENERAL- Each eligible entity that desires to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General may reasonably require.

(2) CONTENTS- Each application submitted pursuant to paragraph (1) shall--

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

(e) MINIMUM AMOUNT- If all applications submitted by a State or units of local government within that State have not been funded under this section in any fiscal year, that State, if it qualifies, and the units of local government within that State, shall receive in that fiscal year not less than 0.5 percent of the total amount appropriated in that fiscal year for grants under this section.

(f) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$25,000,000 for each of the fiscal years 2003 through 2007.

SEC. 1006. INADMISSIBILITY OF ALIENS ENGAGED IN MONEY LAUNDERING.

(a) AMENDMENT TO IMMIGRATION AND NATIONALITY ACT- Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

“(I) MONEY LAUNDERING- Any alien--

“(i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments);
or

“(ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense which is described in such section;

is inadmissible.”.

(b) MONEY LAUNDERING WATCHLIST- Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall develop, implement, and certify to the Congress that there has been established a money laundering watchlist, which identifies individuals worldwide who are known or suspected of money laundering, which is readily accessible to, and shall be checked by, a consular or other Federal official prior to the issuance of a visa or admission to the United States. The Secretary of State shall develop and continually update the watchlist in cooperation with the Attorney General, the Secretary of the Treasury, and the Director of Central Intelligence.

SEC. 1007. AUTHORIZATION OF FUNDS FOR DEA POLICE TRAINING IN SOUTH AND CENTRAL ASIA.

In addition to amounts otherwise available to carry out section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291), there is authorized to be appropriated to the President not less than \$5,000,000 for fiscal year 2002 for regional antidrug training in the Republic of Turkey by the Drug Enforcement Administration for police, as well as increased precursor chemical control efforts in the South and Central Asia region.

SEC. 1008. FEASIBILITY STUDY ON USE OF BIOMETRIC IDENTIFIER SCANNING SYSTEM WITH ACCESS TO THE FBI INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM AT OVERSEAS CONSULAR POSTS AND POINTS OF ENTRY TO THE UNITED STATES.

(a) IN GENERAL- The Attorney General, in consultation with the Secretary of State and the Secretary of Transportation, shall conduct a study on the feasibility of utilizing a biometric identifier (fingerprint) scanning system, with access to the database of the Federal Bureau of Investigation Integrated Automated Fingerprint Identification System, at consular offices abroad and at points of entry into the United States to enhance the ability of State Department and immigration officials to identify aliens who may be wanted in connection with criminal or terrorist investigations in the United States or abroad prior to the issuance of visas or entry into the United States.

(b) REPORT TO CONGRESS- Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit a report summarizing the findings of the study authorized under subsection (a) to the Committee on International Relations and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 1009. STUDY OF ACCESS.

(a) IN GENERAL- Not later than 120 days after enactment of this Act, the Federal Bureau of Investigation shall study and report to Congress on the feasibility of providing to airlines access via computer to the names of passengers who are suspected of terrorist activity by Federal officials.

(b) AUTHORIZATION- There are authorized to be appropriated not more than \$250,000 to carry out subsection (a).

SEC. 1010. TEMPORARY AUTHORITY TO CONTRACT WITH LOCAL AND STATE GOVERNMENTS FOR PERFORMANCE OF SECURITY FUNCTIONS AT UNITED STATES MILITARY INSTALLATIONS.

(a) IN GENERAL- Notwithstanding section 2465 of title 10, United States Code, during the period of time that United States armed forces are engaged in Operation Enduring Freedom, and for the period of 180 days thereafter, funds appropriated to the Department of Defense may be obligated and expended for the purpose of entering into contracts or other agreements for the performance of security functions at any military installation or facility in the United States with a proximately located local or State government, or combination of such governments, whether or not any such government is obligated to provide such services to the general public without compensation.

(b) TRAINING- Any contract or agreement entered into under this section shall prescribe standards for the training and other qualifications of local government law enforcement personnel who perform security functions under this section in accordance with criteria established by the Secretary of the service concerned.

(c) REPORT- One year after the date of enactment of this section, the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives describing the use of the authority granted under this section and the use by the Department of Defense of other means to improve the performance of security functions on military installations and facilities located within the United States.

SEC. 1011. CRIMES AGAINST CHARITABLE AMERICANS.

(a) SHORT TITLE- This section may be cited as the `Crimes Against Charitable Americans Act of 2001'.

(b) TELEMARKETING AND CONSUMER FRAUD ABUSE- The Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.) is amended--

(1) in section 3(a)(2), by inserting after `practices' the second place it appears the following: `which shall include fraudulent charitable solicitations, and';

(2) in section 3(a)(3)--

(A) in subparagraph (B), by striking `and' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following:

`(D) a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.'; and

(3) in section 7(4), by inserting `, or a charitable contribution, donation, or gift of money or any other thing of value,' after `services'.

(c) RED CROSS MEMBERS OR AGENTS- Section 917 of title 18, United States Code, is amended by striking `one year' and inserting `5 years'.

(d) TELEMARKETING FRAUD- Section 2325(1) of title 18, United States Code, is amended--

(1) in subparagraph (A), by striking `or' at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting `; or';

(3) by inserting after subparagraph (B) the following:

`(C) a charitable contribution, donation, or gift of money or any other thing of value,';
and

(4) in the flush language, by inserting `or charitable contributor, or donor' after `participant'.

SEC. 1012. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) LIMITATION-

(1) IN GENERAL- Chapter 51 of title 49, United States Code, is amended by inserting after section 5103 the following new section:

`Sec. 5103a. Limitation on issuance of hazmat licenses

`(a) LIMITATION-

`(1) ISSUANCE OF LICENSES- A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of Transportation has first determined, upon receipt of a notification under subsection (c)(1)(B), that the individual does not pose a security risk warranting denial of the license.

`(2) RENEWALS INCLUDED- For the purposes of this section, the term `issue', with respect to a license, includes renewal of the license.

`(b) HAZARDOUS MATERIALS DESCRIBED- The limitation in subsection (a) shall apply with respect to--

`(1) any material defined as a hazardous material by the Secretary of Transportation; and

`(2) any chemical or biological material or agent determined by the Secretary of Health and Human Services or the Attorney General as being a threat to the national security of the United States.

`(c) BACKGROUND RECORDS CHECK-

`(1) IN GENERAL- Upon the request of a State regarding issuance of a license described in subsection (a)(1) to an individual, the Attorney General--

`(A) shall carry out a background records check regarding the individual; and

`(B) upon completing the background records check, shall notify the Secretary of Transportation of the completion and results of the background records check.

`(2) SCOPE- A background records check regarding an individual under this subsection shall consist of the following:

`(A) A check of the relevant criminal history data bases.

`(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

`(C) As appropriate, a check of the relevant international data bases through Interpol-U.S. National Central Bureau or other appropriate means.

`(d) REPORTING REQUIREMENT- Each State shall submit to the Secretary of Transportation, at such time and in such manner as the Secretary may prescribe, the name, address, and such other information as the Secretary may require, concerning--

`(1) each alien to whom the State issues a license described in subsection (a); and

`(2) each other individual to whom such a license is issued, as the Secretary may require.

`(e) ALIEN DEFINED- In this section, the term `alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act.'.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5103 the following new item:

`5103a. Limitation on issuance of hazmat licenses.'.

(b) REGULATION OF DRIVER FITNESS- Section 31305(a)(5) of title 49, United States Code, is amended--

(1) by striking `and' at the end of subparagraph (A);

(2) by inserting `and' at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

`(C) is licensed by a State to operate the vehicle after having first been determined under section 5103a of this title as not posing a security risk warranting denial of the license.'.

(c) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated for the Department of Transportation and the Department of Justice such amounts as may be necessary to carry out section 5103a of title 49, United States Code, as added by subsection (a).

SEC. 1013. EXPRESSING THE SENSE OF THE SENATE CONCERNING THE PROVISION OF FUNDING FOR BIOTERRORISM PREPAREDNESS AND RESPONSE.

(a) FINDINGS- The Senate finds the following:

- (1) Additional steps must be taken to better prepare the United States to respond to potential bioterrorism attacks.
- (2) The threat of a bioterrorist attack is still remote, but is increasing for a variety of reasons, including--
 - (A) public pronouncements by Osama bin Laden that it is his religious duty to acquire weapons of mass destruction, including chemical and biological weapons;
 - (B) the callous disregard for innocent human life as demonstrated by the terrorists' attacks of September 11, 2001;
 - (C) the resources and motivation of known terrorists and their sponsors and supporters to use biological warfare;
 - (D) recent scientific and technological advances in agent delivery technology such as aerosolization that have made weaponization of certain germs much easier; and
 - (E) the increasing access to the technologies and expertise necessary to construct and deploy chemical and biological weapons of mass destruction.
- (3) Coordination of Federal, State, and local terrorism research, preparedness, and response programs must be improved.
- (4) States, local areas, and public health officials must have enhanced resources and expertise in order to respond to a potential bioterrorist attack.
- (5) National, State, and local communication capacities must be enhanced to combat the spread of chemical and biological illness.

(6) Greater resources must be provided to increase the capacity of hospitals and local health care workers to respond to public health threats.

(7) Health care professionals must be better trained to recognize, diagnose, and treat illnesses arising from biochemical attacks.

(8) Additional supplies may be essential to increase the readiness of the United States to respond to a bio-attack.

(9) Improvements must be made in assuring the safety of the food supply.

(10) New vaccines and treatments are needed to assure that we have an adequate response to a biochemical attack.

(11) Government research, preparedness, and response programs need to utilize private sector expertise and resources.

(12) Now is the time to strengthen our public health system and ensure that the United States is adequately prepared to respond to potential bioterrorist attacks, natural infectious disease outbreaks, and other challenges and potential threats to the public health.

(b) SENSE OF THE SENATE- It is the sense of the Senate that the United States should make a substantial new investment this year toward the following:

(1) Improving State and local preparedness capabilities by upgrading State and local surveillance epidemiology, assisting in the development of response plans, assuring adequate staffing and training of health professionals to diagnose and care for victims of bioterrorism, extending the electronics communications networks and training personnel, and improving public health laboratories.

(2) Improving hospital response capabilities by assisting hospitals in developing plans for a bioterrorist attack and improving the surge capacity of hospitals.

(3) Upgrading the bioterrorism capabilities of the Centers for Disease Control and Prevention through improving rapid identification and health early warning systems.

(4) Improving disaster response medical systems, such as the National Disaster Medical System and the Metropolitan Medical Response System and Epidemic Intelligence Service.

(5) Targeting research to assist with the development of appropriate therapeutics and vaccines for likely bioterrorist agents and assisting with expedited drug and device review through the Food and Drug Administration.

(6) Improving the National Pharmaceutical Stockpile program by increasing the amount of necessary therapies (including smallpox vaccines and other post-exposure vaccines) and ensuring the appropriate deployment of stockpiles.

(7) Targeting activities to increase food safety at the Food and Drug Administration.

(8) Increasing international cooperation to secure dangerous biological agents, increase surveillance, and retrain biological warfare specialists.

SEC. 1014. GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC PREPAREDNESS SUPPORT.

(a) IN GENERAL- The Office for State and Local Domestic Preparedness Support of the Office of Justice Programs shall make a grant to each State, which shall be used by the State, in conjunction with units of local government, to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices.

(b) USE OF GRANT AMOUNTS- Grants under this section may be used to purchase needed equipment and to provide training and technical assistance to State and local first responders.

(c) AUTHORIZATION OF APPROPRIATIONS-

(1) IN GENERAL- There is authorized to be appropriated to carry out this section such sums as necessary for each of fiscal years 2002 through 2007.

(2) LIMITATIONS- Of the amount made available to carry out this section in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(3) MINIMUM AMOUNT- Each State shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, America Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

SEC. 1015. EXPANSION AND REAUTHORIZATION OF THE CRIME IDENTIFICATION TECHNOLOGY ACT FOR ANTITERRORISM GRANTS TO STATES AND LOCALITIES.

Section 102 of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601) is amended--

(1) in subsection (b)--

(A) in paragraph (16), by striking 'and' at the end;

(B) in paragraph (17), by striking the period and inserting `; and'; and

(C) by adding at the end the following:

`(18) notwithstanding subsection (c), antiterrorism purposes as they relate to any other uses under this section or for other antiterrorism programs.'; and

(2) in subsection (e)(1), by striking 'this section' and all that follows and inserting 'this section \$250,000,000 for each of fiscal years 2002 through 2007.'.

SEC. 1016. CRITICAL INFRASTRUCTURES PROTECTION.

(a) SHORT TITLE- This section may be cited as the 'Critical Infrastructures Protection Act of 2001'.

(b) FINDINGS- Congress makes the following findings:

(1) The information revolution has transformed the conduct of business and the operations of government as well as the infrastructure relied upon for the defense and national security of the United States.

(2) Private business, government, and the national security apparatus increasingly depend on an interdependent network of critical physical and information infrastructures, including telecommunications, energy, financial services, water, and transportation sectors.

(3) A continuous national effort is required to ensure the reliable provision of cyber and physical infrastructure services critical to maintaining the national defense, continuity of government, economic prosperity, and quality of life in the United States.

(4) This national effort requires extensive modeling and analytic capabilities for purposes of evaluating appropriate mechanisms to ensure the stability of these complex and interdependent systems, and to underpin policy recommendations, so as to achieve the continuous viability and adequate protection of the critical infrastructure of the Nation.

(c) POLICY OF THE UNITED STATES- It is the policy of the United States--

(1) that any physical or virtual disruption of the operation of the critical infrastructures of the United States be rare, brief, geographically limited in effect, manageable, and minimally detrimental to the economy, human and government services, and national security of the United States;

(2) that actions necessary to achieve the policy stated in paragraph (1) be carried out in a public-private partnership involving corporate and non-governmental organizations; and

(3) to have in place a comprehensive and effective program to ensure the continuity of essential Federal Government functions under all circumstances.

(d) ESTABLISHMENT OF NATIONAL COMPETENCE FOR CRITICAL INFRASTRUCTURE PROTECTION-

(1) SUPPORT OF CRITICAL INFRASTRUCTURE PROTECTION AND CONTINUITY BY NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER- There shall be established the National Infrastructure Simulation and Analysis Center (NISAC) to serve as a source of

national competence to address critical infrastructure protection and continuity through support for activities related to counterterrorism, threat assessment, and risk mitigation.

(2) PARTICULAR SUPPORT- The support provided under paragraph (1) shall include the following:

(A) Modeling, simulation, and analysis of the systems comprising critical infrastructures, including cyber infrastructure, telecommunications infrastructure, and physical infrastructure, in order to enhance understanding of the large-scale complexity of such systems and to facilitate modification of such systems to mitigate the threats to such systems and to critical infrastructures generally.

(B) Acquisition from State and local governments and the private sector of data necessary to create and maintain models of such systems and of critical infrastructures generally.

(C) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide education and training to policymakers on matters relating to--

(i) the analysis conducted under that subparagraph;

(ii) the implications of unintended or unintentional disturbances to critical infrastructures; and

(iii) responses to incidents or crises involving critical infrastructures, including the continuity of government and private sector activities through and after such incidents or crises.

(D) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide recommendations to policymakers, and to departments and agencies of the Federal Government and private sector persons and entities upon request, regarding means of enhancing the stability of, and preserving, critical infrastructures.

(3) RECIPIENT OF CERTAIN SUPPORT- Modeling, simulation, and analysis provided under this subsection shall be provided, in particular, to relevant Federal, State, and local entities responsible for critical infrastructure protection and policy.

(e) CRITICAL INFRASTRUCTURE DEFINED- In this section, the term `critical infrastructure' means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(f) AUTHORIZATION OF APPROPRIATIONS- There is hereby authorized for the Department of Defense for fiscal year 2002, \$20,000,000 for the Defense Threat Reduction Agency for activities of the National Infrastructure Simulation and Analysis Center under this section in that fiscal year.

Passed the House of Representatives October 24, 2001.

Attest:

JEFF TRANDAHL,

Clerk.